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Michigan. Laws, statutes, etc.

MICHIGAN COMPILED LAWS

1970

COMPILED AND ARRANGED UNDER AUTHORITY OF PUBLIC ACT 193 OF 1970

STATE OF MICHIGAN

VOLUME I

COMPILED AND PUBLISHED BY THE
MICHIGAN LEGISLATIVE COUNCIL

PRINTED BY
LITHOCRAFTERS, INC.
ANN ARBOR, MICHIGAN

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CERTIFICATE OF THE LEGISLATIVE COUNCIL

We, the undersigned members of the Legislative Council directed by law to provide for the compilation without alteration of all the general laws in force in this state, hereby certify that the Council caused to be compiled the general laws of the state of Michigan enacted through December 31, 1970 and upon having examined and compared the compilation, further certify that the following, consisting of 6 volumes including index, meets the requirements of Act 193 of the Public Acts of 1970.

Dated: December 15, 1971

Lansing, Michigan

V. 1

SENATORS	REPRESENTATIVES
Robert VanderLaan, *Chairman*	Raymond C. Kehres, *Vice Chairman*
Alvin J. DeGrow	Martin D. Buth
Harry A. DeMaso	William R. Copeland
Garland Lane	James H. Heinze
L. Harvey Lodge	Matthew McNeely
Michael J. O'Brien	Marvin R. Stempien
Charles O. Zollar	Frank V. Wierzbicki

ALTERNATES

William A. Ryan, *Speaker, House of Representatives*
Raymond L. Baker, *Representative*
J. Robert Traxler, *Representative*

ABBREVIATIONS

Add.	— Added.	P.	— Page.
Am.	— Amended.	P.A.	— Public Act.
Art.	— Article.	Pt.	— Part.
C.L.	— Compiled Laws.	Renum.	— Renumbered.
C.R.	— Concurrent Resolution.	Rep.	— Repealed.
Ch. or Chap.	— Chapter.	R.S.	— Revised Statutes.
Const.	— Constitution of 1963.	Sec.	— Act section number.
Eff.	— Effective.	Stat.	— United States Statutes at large.
How.	— Howells' Annotated Statutes (1882, 1890).	Subd.	— Subdivision.
		Sup.	— Superseded.
Imd. Eff.	— Immediate Effect.	§	— Compilers section symbol.
J.R.	— Joint Resolution.		

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PREFACE

The 1963 Constitution of the State of Michigan, Article IV, Section 36, states that the Legislature may provide for a compilation of the laws of the State in force, arranged without alteration, under appropriate heads and titles. The Legislative Council was designated as the State agency responsible for providing compilations through the passage of Act 193 of the Public Acts of 1970. Under this authority, this eighth compilation of Michigan laws was prepared. Previous official publications of the general law in force since the admission of Michigan to the Union in 1837 have resulted in revisions of 1838 and 1846 and compilations in 1857, 1871, 1882 with a supplement in 1890, 1897, 1915, 1929 and 1948.

Responsibility for the Compilation

The initial planning for the 1970 compilation of the Michigan Laws began in 1969 under the direction of the Legislative Council. The intent of the Council was to make available to officials and the citizenry of the State a desk copy of the Constitution and general laws of Michigan. Upon passage of Act 193 of 1970, the Council proceeded with the actual mechanics of the Compilation which has been completed under the direction of the 1971 Council.

Legislative Council members and alternates who have served either for the entire period or a portion of the time the Compilation was in progress were: Senators Raymond D. Dzendzel[1], Harold W. Hungerford, Garland Lane, Emil Lockwood, Thomas F. Schweigert, Robert VanderLaan[1], Charles O. Zollar, Alvin J. DeGrow, L. Harvey Lodge, Harry A. DeMaso and Michael J. O'Brien; Speaker of the House William A. Ryan[1], Representatives Raymond L. Baker, James H. Heinze, Albert R. Horrigan[1], Matthew McNeely, George F. Montgomery, Frank V. Wierzbicki, Martin D. Buth, William R. Copeland, Raymond C. Kehres[1], Marvin R. Stempien, and J. Robert Traxler.

As a means of expediting and insuring the Compilation was being completed in accordance with the statutory directive, a Subcommittee of the Council was established to oversee the project. The Subcommittee membership was composed of: Representative James H. Heinze, Chairman; Senators Garland Lane and L. Harvey Lodge and Representative J. Robert Traxler.

In accordance with the policies and guidelines established by the Legislative Council, the Council's Secretary, A. E. Reyhons, who is also Director of the Legislative Service Bureau, has been responsible for the general organization and completion of the 1970 Compilation. The technical aspects of the Compilation have been under the supervision of Henry E. Fogarty, employed in July 1970 by the Council as Legal Editor, a position with the Legislative Service Bureau. Previously, Mr. Fogarty had many years of experience in legal publishing as Managing Editor with Equity Publishing Corporation and on the editorial staffs of Prentice-Hall, Inc., and American Law Book Company.

Preparation of the Compilation

The Constitutional and statutory requirements that a compilation be without alteration have been strictly followed in the preparation of this Compilation which includes the Michigan Constitution and all of the general laws passed by the Michigan Legislature through 1970.

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[1] Council Officers during the period of the Compilation were: 1969 — Chairman - Senator Raymond D. Dzendzel, Vice-Chairman - Speaker of the House William A. Ryan (January-May) and Representative Albert R. Horrigan (May-December); 1970 — Chairman - Representative Albert R. Horrigan, Vice-Chairman - Senator Raymond D. Dzendzel; 1971 — Chairman - Senator Robert VanderLaan, Vice-Chairman - Representative Raymond C. Kehres.

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As a point of beginning, the *Compiled Laws of 1948* was accepted by the Legislative Council as accurate due to the detailed procedures followed in preparing the Compilation. Accepting this premise, the general laws in the 1948 Compilation which remained in effect were copied in the preparation of proof pages for the 1970 Compilation. Laws passed since 1948 which were to be included were copied from the respective annual publications of the Public Acts of the Legislature published by the Department of Administration. All copy was carefully and systematically proofread with laws copied from the 1948 Compilation being proofed with the respective sections of that Compilation. Public Acts enacted since 1948 have been compared with the original Enrolled Acts on file in the office of the Secretary of State.

Classification and Numbering of Laws

In classifying the laws, the major division has been confined to chapters as was followed in the 1948 Compilation. This arrangement has been maintained for the purpose of simplification and flexibility. The general laws, new and amendatory, enacted since 1948 have been classified and numbered to conform to the decimal numbering system adopted for the 1948 Compilation.

Running Heads

Since it is customary to cite Michigan law by reference to compiler's section number, numbers of the section at the top of the respective pages have been placed on the outside corner of each page and the page number appears on the inside corner. Generally the chapter titles are included in the running heads.

Chapter and Section Analyses

A complete table of contents appears at the beginning of each volume. An analysis of sections consisting of the catchlines to an act or acts within a chapter are located at the beginning of each chapter. Where an act embracing more than one chapter is divided into chapters or parts and chapters, the catchline analysis is found at the beginning of the chapters or parts.

Repealed Sections

Sections of the *Compiled Laws of 1948* repealed since 1948 are referred to in the order in which the text appeared in the Compiled Law number sequence with an explanatory note as to the subject matter of the repealed section or sections. Repealed sections are also noted in the analysis of chapters.

Catchlines

Unless otherwise indicated, the catchline is the work of the compiler. However, where preceded by the act section number, the catchline is part of the act as enacted. In some sections, such a catchline has been supplemented by the compiler, the addition appearing between the compiler's section number and the act section number.

Notes

Historical notes under each section include references to former compilations and any antecedents of the section. Explanatory notes have been added when necessary. Cross-references are made to other portions of State law pertaining to the section.

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Technical Assistance and Printing

To facilitate the completion of this Compilation, the Legislative Council contracted with Aspen Systems Corporation, Pittsburgh, Pennsylvania, to place all current Constitutional and statutory provisions of the State on an integrated computer-readable, printable and photocomposable tape. The text of each section placed on tape was required to conform exactly to the source material.

Upon converting the Constitutional and statutory sections to computer application, copies of the sections were generated by Aspen Systems and returned to the Legislative Service Bureau in computer printout form. The printouts were utilized by the Bureau in the proofreading of the text of the Constitution and the laws and in verifying catchlines, history notes and cross-references.

Upon receiving the proofread printouts, Aspen Systems corrected and forwarded the photocomposition tapes to American Computype, Inc., St. Paul, Minnesota, for use in generating page negatives of the 1963 Constitution, the general laws, the Index and Table 8 of the 1970 *Michigan Compiled Laws*. The negatives were subsequently forwarded to Lithocrafters, Inc., Ann Arbor, Michigan who was awarded the contract for the printing of the 1970 Compilation. The printing contract was approved by the Legislative Council after bids for the contract were prepared and let under the supervision of the Purchasing Division, Department of Administration.

Volume VI — Index and Cross-Reference Tables

The Index for the 1970 Compilation has been prepared by Aspen Systems Corporation through the use of the computer tapes. It is noted that the Index for the 1963 Constitution, found in Volume I of this Compilation, is separate from the general laws Index found in Volume VI. For greater assistance to the Index user, it is anticipated that in future compilations the Index for the Constitution will not only be printed separately but will also be merged with the Index of the general laws. The cross-reference tables found in Volume VI apply to prior official compilations and Public Acts from 1949 through 1970.

Case Annotations

The *Compiled Laws of 1948* included a volume on case annotations. However, in preparing the 1970 *Michigan Compiled Laws*, the Legislative Council eliminated case annotations since the Michigan Laws in annotated form are available through two private publishing companies: *Michigan Statutes Annotated*, Callaghan & Company, Chicago, Illinois; and *Michigan Compiled Laws Annotated*, West Publishing Company, St. Paul, Minnesota.

Personnel

The general editorial work, after July 22, 1970, and the proofreading and verification involved in the preparation of this Compilation were under the general supervision of Henry E. Fogarty, Legal Editor with the Legislative Service Bureau. Assisting with the proofreading were Alice G. Nugent and Adeline Balzell, both of whom proofread for the 1948 Compilation, Elizabeth P. Huxley, David M. Laughlin, Beverly A. McCauley, Carol D. Manning, Donna M. Owen, Mildred A. Rukes and Sally A. Schnabel. Catchlines, history notes and cross-references were verified by the Legal Editor with the assistance of James R. Ward, Legal Counsel with the Service Bureau. Page negatives received from American Computype, Inc., were verified for form and content by the Legal

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Editor with the assistance of Mr. Ward and Larry D. Hardin, Bureau Legal Counsel. The negatives of the text of the Constitution and the general laws, the Index and Table 8 of the Compilation were screened for printing quality by the Compilation Division staff of the Legislative Service Bureau: William M. Graham, Supervisor; Jack S. Robinson, Assistant Supervisor; Everett W. Downing, Donald Fankboner, Stephen G. Willis and Jay A. Yauch. The Composition Division has also been responsible for the preparation of the page proofs and negatives of Tables 1 through 7 and Table 9 of the Compilation.

Future Compilations

With the previous Compilation having been completed in 1948, the Legislative Council is cognizant that 22 years is too long a period between compilations. Since the Michigan Laws are now on photocomposition tape, subsequent compilations should be much easier to accomplish. Therefore, the Legislative Council recommends that compilations of the Michigan Laws be accomplished every four years at a minimum. In the intervening years, staff of the Legislative Service Bureau should review the Laws for conflicting and outdated statutes that are in need of repeal and strive for improving the format and editorial content of the publication which time did not permit with the 1970 Compilation.

Due to the magnitude of the work involved in the compiling and printing of the 1970 *Michigan Compiled Laws*, the Council is aware that the delivery of this Compilation will be delayed until late in 1972. Therefore, the Council is also recommending that a supplement to the 1970 Compilation be prepared which will contain the 1971 and 1972 Michigan Public Acts and that the supplement be available for distribution at the earliest date possible in 1973. If the Michigan Laws are to be compiled on a quadrennial basis, then the Council further recommends that supplements to the compilations be printed at least biennially between compilations.

Dated: December 15, 1971
Lansing, Michigan

Senator Robert Vanderlaan, Chairman
Representative Raymond C. Kehres, Vice-Chairman

Senator Alvin J. DeGrow	Representative Martin D. Buth
Senator Harry A. DeMaso	Representative William R. Copeland
Senator Garland Lane	Representative James H. Heinze
Senator L. Harvey Lodge	Representative Matthew McNeely
Senator Michael J. O'Brien	Representative Marvin R. Stempien
Senator Charles O. Zollar	Representative Frank V. Wierzbicki

Speaker William A. Ryan, Alternate Member
Representative Raymond L. Baker, Alternate Member
Representative J. Robert Traxler, Alternate Member
A. E. Reyhons, Secretary

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PRELIMINARY CHAPTER I

MAGNA CARTA

THE GREAT CHARTER OF LIBERTIES OF KING JOHN.

Granted at Runnymede, June 15, A.D., 1215, in the Seventeenth Year of His Reign.

John, by the grace of God King of England, Lord, of Ireland, Duke of Normandy, and Aquitaine, and Count of Anjou, to his Archbishops, Bishops, Abbots, Earls, Barons, Justiciaries, Foresters, Sheriffs, Governors, Officers, and to all Bailiffs, and his lieges, greeting. Know ye, that we in the presence of God, and for the salvation of our soul, and the souls of our ancestors and heirs, and unto the honour of God and the advancement of Holy Church, and amendment of our Realm, by advice of our venerable Fathers, Stephen, Archbishop of Canterbury, Primate of all England and Cardinal of the Holy Roman Church, Henry, Archbishop of Dublin, William of London, Peter of Winchester, Jocelin of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, Benedict of Rochester, Bishops: of Master Pandulph, Sub-Deacon and Familiar of our Lord the Pope, Brother Aymeric, Master of the Knights-Templars in England; and of the Noble Persons, William Marescall, Earl of Pembroke, William, Earl of Salisbury, William, Earl of Warren, William, Earl of Arundel, Alan de Galloway, Constable of Scotland, Warin Fitz Gerald, Peter Fitz Herbert, and Hubert de Burgh, Seneschal of Poitou, Hugh de Neville, Matthew Fitz Herbert, Thomas Basset, Alan Basset, Philip of Albiney, Robert de Roppell, John Mareschal, John Fitz Hugh, and others our liegemen, have, in the first place, granted to God, and by this our present charter confirmed, for us and our heirs forever:

1. That the church of England shall be free, and have her whole rights, and her liberties inviolable; and we will have them so observed, that it may appear thence, that the freedom of elections, which is reckoned chief and indispensable to the English church, and which we granted and confirmed by our charter, and obtained the confirmation of the same from our Lord the Pope Innocent III., before the discord between us and our barons, was granted of mere free will; which charter we shall observe, and we do will it to be faithfully observed by our heirs for ever.

2. We also have granted to all the freemen of our kingdom, for us and for our heirs for ever, all the underwritten liberties, to be had and holden by them and their heirs, of us and our heirs for ever: If any of our earls, or barons, or others, who hold of us in chief by military service, shall die, and at the time of his death his heir shall be of full age, and owes a relief, he shall have his inheritance by the ancient relief; that is to say, the heir or heirs of an earl, for a whole earldom, by a hundred pounds; the heir or heirs of a baron, for a whole barony, by a hundred pounds; the heir or heirs of a knight, for a whole knight's fee, by a hundred shillings at most; and whoever oweth less shall give less, according to the ancient custom of fees.

NOTE: The Latin text from which the translation is made is that of William Stubbs, Regius Professor of Modern History in Oxford University, in "Documents, Illustrative of English History."

While King John had accepted the reforms contained in Magna Carta unwillingly, and insincerely, the advisers of his son accepted them in good faith. Three reissues of the Charter were granted, in 1216, 1217 and 1225, and these were followed by many confirmations, a full account of which would involve a complete political and legal history of England. McKechnie-Com. Great Charter, p. 164.

The third reissue marked the final form assumed by Magna Carta. The identical words were then used, which afterwards became stereotyped, and were confirmed time after time without further modification. It is this charter of 1225, with some slight exceptions, which is always referred to in the ordinary editions of the Statutes, in the courts of law, in parliament, and in a long series of classical law books beginning with the second Institute of Sir Edward Coke, Id. p. 183.

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3. But if the heir of any such shall be under age, and shall be in ward when he comes of age, he shall have his inheritance without relief and without fine.

4. The keeper of the land of such an heir being under age, shall take of the land of the heir none but reasonable issues, reasonable customs, and reasonable services, and that without destruction and waste of his men and his goods; and if we commit the custody of any such lands to the sheriff, or any other who is answerable to us for the issues of the land, and he shall make destruction and waste of the lands which he hath in custody, we will take of him amends, and the land shall be committed to two lawful and discreet men of that fee, who shall answer for the issues to us, or to him to whom we shall assign them; and if we sell or give to any one the custody of any such lands, and he therein make destruction or waste, he shall lose the same custody, which shall be committed to two lawful and discreet men of that fee, who shall in like manner answer to us as aforesaid.

5. But the keeper, so long as he shall have the custody of the land, shall keep up the houses, parks, warrens, ponds, mills, and other things pertaining to the land, out of the issues of the same land; and shall deliver to the heir when he comes of full age, his whole land, stocked with ploughs and carriages, according as the time of wainage shall require, and the issues of the land can reasonably bear.

6. Heirs shall be married without disparagement, and so that before matrimony shall be contracted those who are near in blood to the heir shall have notice.

7. A widow, after the death of her husband, shall forthwith and without difficulty have her marriage and inheritance; nor shall she give anything for her dower, or her marriage, or her inheritance, which her husband and she held at the day of his death; and she may remain in the mansion house of her husband forty days after his death, within which term her dower shall be assigned.

8. No widow shall be distrained to marry herself, so long as she has a mind to live without a husband; but yet she shall give security that she will not marry without our assent, if she holds of us; or without the consent of the lord of whom she holds, if she hold of another.

9. Neither we nor our bailiffs shall seize any land or rent for any debt, so long as the chattels of the debtor are sufficient to pay the debt; nor shall the sureties of the debtor be distrained so long as the principal debtor has sufficient for the payment of the debt; and if the principal debtor shall fail in the payment of the debt, not having wherewithal to pay it, then the sureties shall answer the debt; and if they will they shall have the lands and rents of the debtor, until they shall be satisifed for the debt which they paid for him, unless the principal debtor can show himself acquitted thereof against the said sureties.

10. If any one have borrowed anything of the Jews, more or less, and die before the debt be satisfied, there shall be no interest paid for that debt, so long as the heir is under age, of whomsoever he may hold; and if the debt fall into our hands we will only take the chattel mentioned in the deed.

11. And if anyone shall die indebted to the Jews, his wife shall have her dower and pay nothing of that debt; and if the deceased left children under age, they shall have necessaries provided for them, according to the tenement of the deceased; and out of the residue the debt shall be paid, saving however, the service due to the lords; and in like manner shall it be done touching debts due to others than the Jews.

12. No scutage or aid shall be imposed in our kingdom, unless by the general council of our kingdom; except for ransoming our person, making our eldest son a knight, and once for marrying our eldst daughter; and for these there shall be paid a reasonable aid. In like manner it shall be concerning the aids of the City of London.

13. And the City of London shall have all its ancient liberties and free customs, as

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well, by land as by water: furthermore we will and grant, that all other cities and boroughs, and towns and ports, shall have all their liberties and free customs.

14. And for holding the general council of the kingdom concerning the assessment of aids, except in the three cases aforesaid, and for the assessing of scutages, we will cause to be summoned the archbishops, bishops, abbots, earls, and greater barons of the realm, singly by our letters. And furthermore, we shall cause to be summoned generally by our sheriffs and bailiffs, all others who hold of us in chief, for a certain day, that is to say, forty days before their meeting at least, and to a certain place; and in all letters of such summons we will declare the cause of such summons. And summons being thus made, the business of the day shall proceed on the day appointed, according to the advice of such as shall be present, although all that were summoned come not.

15. We will not for the future grant to any one that he may take aid of his own free tenants, unless to ransom his body, and to make his eldest son a knight, and once to marry his eldest daughter; and for this there shall be only paid a reasonable aid.

16. No man shall be distrained to perform more service for a knight's fee, or other free tenement, than is due from thence.

17. Common pleas shall not follow our court, but shall be holden in some place certain.

18. Assizes of novel disseisin, and of mort d'ancestor, and of darrien presentment, shall not be taken but in their proper counties, and after this manner: We, or, if we should be out of the realm, our chief justiciary, shall send two justiciaries through every county four times a year, who, with four knights, chosen out of every shire by the people, shall hold the said assizes, in the county, on the day, and at the place appointed.

19. And if any matters cannot be determined on the day appointed for holding the assizes in each county, so many of the knights and freeholders as have been at the assizes aforesaid, shall stay to decide them, as is necessary, according as there is more or less business.

20. A freeman shall not be amerced for a small fault, but after the manner of the fault; and for a great crime according to the heinousness of it, saving to him his contentment; and after the same manner a merchant, saving to him his merchandise. And a villein shall be amerced after the same manner, saving to him his wainage, if he shall fall under our mercy; and none of the aforesaid amerciaments shall be assessed but by the oath of honest men in the neighborhood.

21. Earls and barons shall not be amerced, but by their peers, and after the degree of the offence.

22. No ecclesiastical person shall be amerced for his lay tenement, but according to the proportion of the others aforesaid, and not according to the value of his ecclesiastical benefice.

23. Neither a town nor any tenant shall be distrained to make bridges or banks, unless that anciently and of right they are bound to do it.

24. No sheriff, constable, coroner, or other our bailiffs, shall hold pleas of our Crown.

25. All counties, hundreds, wapentakes, and tythings, shall stand at the old rents, without any increase, except in our demesne manors.

26. If any one holding of us a lay-fee die, and the sheriff, or our bailiffs, show our letters patent, of summons for debt which the dead man did owe to us, it shall be lawful for the sheriff or our bailiff to attach and inroll the chattels of the dead, found upon his lay-fee, to the value of the debt, by the view of lawful men so as nothing be removed until our whole clear debt be paid; and the rest shall be left to the executors to fulfill the testament of the dead, and if there be nothing due from him to us, all the

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chattels shall go to the use of the dead, saving to his wife and children their reasonable shares.

27. If any freeman shall die intestate, his chattels shall be distributed by the hands of his nearest relations and friends, by view of the church; saving to every one his debts which the deceased owed to him.

28. No constable or bailiff of ours shall take corn or other chattels of any man, unless he presently give him money for it, or hath respite of payment by the good-will of the seller.

29. No constable shall distrain any knight to give money for castle guard, if he himself will do it in his person, or by another able man in case he cannot do it through any reasonable cause. And if we lead him, or send him, in an army, he shall be free from such guard for the time he shall be in the army by our command.

30. No sheriff or bailiff of ours, or any other, shall take horses or carts of any freeman for carriage, but by the good-will of the said freeman.

31. Neither shall we nor our bailiffs take any man's timber for our castles or other uses, unless by the consent of the owner of the timber.

32. We will retain the lands of those convicted of felony only one year and a day, and then they shall be delivered to the lord of the fee.

33. All weirs for the time to come shall be put down in the rivers of Thames and Medway, and throughout all England, except upon the sea-coast.

34. The writ which is called Praecipe, for the future, shall not be made out to any one, of any tenement, whereby a freeman may lose his court.

35. There shall be one measure of wine and one of ale through our whole realm; and one measure of corn, that is to say, the London quarter; and one breadth of dyed cloth, and russets, and haber-jeets, that is to say, two ells within the lists; and it shall be of weights as it is of measures.

36. Nothing from henceforth shall be given or taken for a writ of inquisition of life or limb, but it shall be granted freely, and not denied.

37. If any do hold of us by fee-farm, or by socage, or by burgage, and he hold also lands of any other by knight's service, we will not have the custody of the heir or land, which is holden of another man's fee of reason of that fee-farm, socage, or burgage; neither will we have the custody of such fee farm, socage, or burgage, except knight's service was due to us out of the same fee-farm. We will not have the custody of an heir, nor of any land which he holds of another by knight's service, by reason of any petty serjeanty that holds of us, by the service of paying a knife, an arrow, or the like.

38. No bailiff from henceforth shall put any man to his law upon his own bare saying, without creditable witnesses to prove it.

39. No freeman shall be taken or imprisoned, or disseised, or outlawed, or banished, or any ways destroyed, nor will we pass upon him, nor will we send upon him, unless by the lawful judgment of his peers, or by the law of the land.

40. To none will we sell, to none will we deny, or delay, right or justice.

41. All merchants shall have safe and secure conduct, to go out of, and to come into England, and to stay there, and to pass as well by land as by water, for buying and selling by the ancient and allowed customs, without any evil tolls; except in time of war, or when they are of any nation at war with us. And if there be found any such in our land, in the beginning of the war, they shall be attached, without damage to their bodies or goods, until it be known unto us or our chief justiciary, how our merchants be treated in the nation at war with us; and if ours be safe there, the other shall be safe in our dominions.

42. It shall be lawful, for the time to come, for any one to go out of our kingdom,

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and return safely and securely, by land or by water, saving his allegiance to us, unless in time of war, by some short space, for the common benefit of the realm, except prisoners and outlaws, according to the law of the land, and people in war with us, and merchants who shall be in such condition as is above mentioned.

43. If any man hold of any escheat, as of the honour of Wallingford, Nottingham, Boulogne, Lancaster, or of other escheats which be in our hands, and are baronies, and die, his heir shall give no other relief, and perform no other service to us, than he would to the baron, if it were in the baron's hand; we will hold it after the same manner as the baron held it.

44. Those men who dwelt without the forest, from henceforth shall not come before our justiciaries of the forest, upon common summons, unless such as are impleaded, or are pledges for any that are attached for something concerning the forest.

45. We will not make any justices, constables, sheriffs, or bailiffs, but of such as know the law of the realm and mean duly to observe it.

46. All barons who have founded abbeys, and have the kings of England's charters of advowson, or the ancient tenure thereof, shall have the keeping of them, when vacant, as they ought to have.

47. All forests that have been made forests in our time, shall forthwith be disforested; and the same shall be done with the water banks that have been fenced in by us in our time.

48. All evil customs concerning forests, warrens, foresters and warreners, sheriffs and their officers, rivers and their keepers, shall forthwith be inquired into in each county, by twelve sworn knights of the same shire, chosen by creditable persons of the same county; and within forty days after the said inquest, be utterly abolished, so as never to be restored: so as we are first acquainted therewith, or our justiciary, if we should not be in England.

49. We will immediately give up all hostages and writings delivered unto us by our English subjects, as securities for their keeping the peace, and yielding us faithful service.

50. We will entirely remove from our bailiwicks the relations of Gerard de Atheyes, so that for the future they shall have no bailiwick in England; we will also remove Engelard de Cygony, Andrew, Peter, and Gyon, from the Chancery; Gyon de Cygony, Geoffrey de Martyn and his brothers; Philip Mark, and his brothers, and his nephew, Geoffrey, and their whole retinue.

51. As soon as peace is restored, we will send out of the kingdom all foreign soldiers, crossbowmen, and stipendiaries, who are come with horses and arms to the prejudice of our people.

52. If any one has been dispossessed or deprived by us, without the legal judgment of his peers, of his lands, castles, liberties, or right, we will forthwith restore them to him; and if any dispute arise upon this head, let the matter be decided by the five-and-twenty barons hereafter mentioned, for the preservation of the peace. As for all those things of which any person has, without the legal judgment of his peers, been dispossessed or deprived, either by King Henry our father, or our brother King Richard, and which we have in our hands, or are possessed by others, and we are bound to warrant and make good, we shall have a respite till the term usually allowed the crusaders; excepting those things about which there is a plea depending, or whereof an inquest hath been made, by our order, before we undertook the crusade, but when we return from our pilgrimage, or if perchance we tarry at home and do not make our pilgrimage, we will immediately cause full justice to be administered therein.

53. The same respite we shall have (and in the same manner about administering justice, disafforesting the forests, or letting them continue) for disafforesting the for-

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ests, which Henry our father, and our brother Richard have afforested; and for the keeping of the lands which are in another's fee, in the same manner as we have hitherto enjoyed those wardships, by reason of a fee held of us by knight's service; and for the abbeys founded in any other fee than our own, in which the lord of the fee says he has a right; and when we return from our pilgrimage, or if we tarry at home, and do not make our pilgrimage, we will immediately do full justice to all the complainants in this behalf.

54. No man shall be taken or imprisoned upon the appeal of a woman, for the death of any other than her husband.

55. All unjust and illegal fines made by us, and all amerciaments imposed unjustly and contrary to the law of the land, shall be entirely given up, or else be left to the decision of the five-and-twenty barons hereafter mentioned for the preservation of the peace, or of the major part of them, together with the aforesaid Stephen, archbishop of Canterbury, if he can be present, and others whom he shall think fit to take along with him; and if he cannot be present, the business shall notwithstanding go on without him; but so that if one or more of the aforesaid five-and-twenty barons be plaintiffs in the same cause, they shall be set aside as to what concerns this particular affair, and others be chosen in their room, out of the said five-and-twenty, and sworn by the rest to decide the matter.

56. If we have disseised or dispossessed the Welsh, of any lands, liberties, or other things, without the legal judgment of their peers, either in England or in Wales, they shall be immediately restored to them; and if any dispute arise upon this head, the matter shall be determined in the marche by the judgment of their peers; for tenements in England according to the law of England, for tenements in Wales according to the law of Wales, for tenements of the marche according to the law of the marche; the same shall the Welsh do to us and our subjects.

57. As for all those things of which a Welshman hath, without the legal judgment of his peers, been disseised or deprived of by King Henry our father, or our brother King Richard, and which we either have in our hands, or others are possessed of, and we are obliged to warrant it, we shall have a respite till the time generally allowed the crusaders; excepting those things about which a suit is depending, or whereof an inquest has been made by our order, before we undertook the crusade; but when we return, or if we stay at home without performing our pilgrimage, we will immediately do them full justice, according to the laws of the Welsh and of the parts before mentioned.

58. We will without delay dismiss the son of Llewellin, and all the Welsh hostages, and release them from the engagements they have entered into with us for the preservation of the peace.

59. We will treat with Alexander, King of Scots, concerning the restoring his sisters and hostages, and his right and liberties, in the same form and manner as we shall do to the rest of our barons of England; unless by the charters which we have from his father, William, late King of Scots, it ought to be otherwise; but this shall be left to the determination of his peers in our court.

60. All the aforesaid customs and liberties, which we have granted to be holden in our kingdom, as much as it belongs to us, towards our people of our kingdom, as well clergy as laity shall observe, as far as they are concerned, towards their tenants.

61. And whereas, for the honour of God and the amendment of our kingdom, and for the better quieting the discord that has arisen between us and our barons, we have granted all these things aforesaid; willing to render them firm and lasting, we do give and grant our subjects the underwritten security, namely, that the barons may choose five-and-twenty barons of the kingdom, whom they think convenient; who shall take care, with all their might, to hold and observe, and cause to be observed; the peace

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and liberties we have granted them, and by this our present charter confirmed; so that if we, our justiciary, our bailiffs, or any of our officers, shall in any circumstance fail in the performance of them, towards any person, or shall break through any of these articles of peace and security, and the offence be notified to four barons chosen out of the five-and-twenty before mentioned, the said four barons shall repair to us, or our justiciary, if we are out of the realm, and, laying open the grievance, shall petition to have it redressed without delay: and if it be not redressed by us, or if we should chance to be out of the realm, if it should not be redressed by our justiciary, within forty days, reckoning from the time it has been notified to us, or to our justiciary, (if we should be out of the realm), and four barons aforesaid shall lay the cause before the rest of the five-and-twenty barons, and the said five-and-twenty barons, together with the community of the whole kingdom, shall distrain and distress us in all possible ways, by seizing our castles, lands, possessions, and in any other manner they can, till the grievance is redressed according to their pleasure; saving harmless our own person, and the persons of our queen and children; and when it is redressed, they shall obey us as before. And any person whatsoever in the kingdom, may swear that he will obey the orders of the five-and-twenty barons aforesaid, in the execution of the premises, and will distress us jointly with them, to the utmost of his power; and we give public and free liberty to anyone that shall please to swear to this, and never will hinder any person from taking the same oath.

62. As for all those of our subjects who will not, of their own accord, swear to join the five-and-twenty barons in distraining and distressing us, we will issue orders to make them take the same oath as aforesaid. And if any one of the five-and-twenty barons dies, or goes out of the kingdom, or is hindered any other way from carrying the things aforesaid into execution, the rest of the said five-and-twenty barons may choose another in his room, at their discretion, who shall be sworn in like manner as the rest. In all things that are committed to the execution of these five-and-twenty barons, if, when they are all assembled together, they should happen, to disagree about any matter, and some of them, when summoned, will not, or cannot, come, whatever is agreed upon, or enjoined by the major part of those that are present, shall be reputed as firm and valid as if all the five-and-twenty had given their consent; and the aforesaid five-and-twenty shall swear, that all the premises they shall faithfully observe, and cause with all their power to be observed. And we will not, by ourselves, or by any other, procure anything whereby any of these concessions and liberties may be revoked or lessened; and if any such thing be obtained, let it be null and void; neither shall we ever make use of it, either by ourselves or any other. And all the ill will, indignations, and rancours that have arisen between us and our subjects, of the clergy and laity, from the first breaking out of the dissensions between us, we do fully remit and forgive: moreover all trespasses occasioned by the said dissensions, from Easter in the fifteenth year of our reign, till the restoration of peace and tranquility, we hereby entirely remit to all, both clergy and laity, and as far as in us lies do fully forgive. We have moreover, caused to be made for them the letters patent testimonial of Stephen, lord archbishop of Canterbury, Henry, lord archbishop of Dublin, and the bishops aforesaid, as also of master Pandulph, for the security and concesssions aforesaid.

63. Wherefore we will and firmly enjoin, that the Church of England be free, and that all the men in our kingdom have and hold all the aforesaid liberties, rights, and concesssions, truly and peaceably, freely and quietly, fully and wholly to themselves and their heirs, of us and our heirs, in all things and places, for ever, as is aforesaid. It is also sworn, as well on our part as on the part of the barons, that all the things aforesaid shall be observed bona fide and without evil subtilty. Given under our hand, in the presence of the witnesses above named, and many others, in the meadow called

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Runnymede, between Windsor and Staines, the 15th day of June, in the 17th year of our reign.

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PRELIMINARY CHAPTER II

DECLARATION OF INDEPENDENCE

UNANIMOUSLY PASSED BY THE CONGRESS OF THE THIRTEEN UNITED STATES OF AMERICA, JULY 4, 1776.

When in the Course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object, evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States To prove this, let Facts be submitted to a candid world.

He has refused his assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States, for that purpose ob-

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structing the Laws for Naturalization of Foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our people and eat out their substance.

He has kept among us, in times-of peace Standing Armies, without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them by a mock Trial from punishment for any Murders which they should commit on the Inhabitants of these States.

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent.

For depriving us in many cases of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies.

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments.

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms. Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable ju-

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risdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name and by the authority of the good People of these Colonies solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

JOHN HANCOCK.

New Hampshire
JOSIAH BARTLETT,
WILLIAM WHIPPLE,
MATTHEW THORNTON.

Massachusetts Bay
JOHN ADAMS,
SAMUEL ADAMS,
ROBERT TREAT PAINE,
ELBRIDGE GERRY.

Rhode Island
STEPHEN HOPKINS,
WILLIAM ELLERY.

Connecticut
ROGER SHERMAN,
SAMUEL HUNTINGTON,
WILLIAM WILLIAMS,
OLIVER WOLCOTT.

New York
WILLIAM FLOYD,
PHILIP LIVINGSTON,
FRANCIS LEWIS,
LEWIS MORRIS.

New Jersey
RICHARD STOCKTON,
JOHN WITHERSPOON,
FRANCIS HOPKINSON,
JOHN HART,
ABRAHAM CLARK.

Pennsylvania
ROBERT MORRIS,
BENJAMIN RUSH,
BENJAMIN FRANKLIN,
JOHN MORTON,
GEORGE CLYMER,
JAMES SMITH,
GEORGE TAYLOR,
JAMES WILSON,
GEORGE ROSS.

Delaware
CAESAR RODNEY,
GEORGE READ,
THOMAS M'KEAN.

Maryland
SAMUEL CHASE,
WILLIAM PACA,
THOMAS STONE,
CHARLES CARROLL, of Carrollton.

Virginia
GEORGE WYTHE,
RICHARD HENRY LEE,
THOMAS JEFFERSON,
BENJAMIN HARRISON,
THOMAS NELSON, JR.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

North Carolina
WILLIAM HOOPER,
JOSEPH HEWES,
JOHN PENN.

South Carolina
EDWARD RUTLEDGE,
THOMAS HEYWARD, JR.,
THOMAS LYNCH, JR.,
ARTHUR MIDDLETON.

Georgia
BUTTON GWINNETT,
LYMAN HALL,
GEORGE WALTON.

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PRELIMINARY CHAPTER III
THE CONSTITUTION
OF THE
UNITED STATES OF AMERICA

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Preamble. We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article. I.

Grant of legislative power.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

House of representatives; qualifications of electors.

Section. 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Qualifications of representative.

(2) No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

NOTE: Numerals in parenthesis indicating clause numbers were inserted by the compiler and do not appear in the original Constitution.

Apportionment of representatives and direct taxes; census; first apportionment.

(3) Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including

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those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

APPORTIONMENT OF REPRESENTATIVES: See Par. 2, amendment XIV.
TAXATION OF INCOMES: See amendment XVI.
DIRECT TAX: See also Par. 4 of Sec. 9 of this article.

Vacancies.

(4) When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

Officers of the House; impeachments.

(5) The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Senate.

Section. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

ELECTION OF SENATORS: See amendment XVII.

Classification of members; vacancies.

(2) Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

ELECTION OF SENATORS: See amendment XVII.

Qualifications of members.

(3) No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

Vice president to be president of the senate.

(4) The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

Other officers of the senate.

(5) The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

Trial of impeachments.

(6) The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United

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States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in impeachment.

(7) Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States; but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Election of members of congress.

Section. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

Meetings of congress.

(2) The Congress shall assemble at least once in every Year, and such Meetings shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Congress assembles at noon on the 3d day of January, unless they shall by law appoint a different day, see Amendment XX, Sec. 2.

Powers of each house; quorum.

Section. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Rules of proceedings; expulsion of members.

(2) Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Journal.

(3) Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Adjournment.

(4) Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Compensation and privileges of members.

Section. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

Disabilities of members.

(2) No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such

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time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Revenue bills.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Passage and approval of bills; return with objections; reconsideration; pocket veto.

(2) Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Concurrent action to be presented for approval.

(3) Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Power of congress as to taxation, uniformity.

Section. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Loans.

(2) To borrow Money on the credit of the United States;

Commerce.

(3) To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

Naturalization; bankruptcies.

(4) To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

Money; weights; measures.

(5) To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

Counterfeiting.

(6) To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

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Postoffices.

(7) To establish Post Offices and post Roads;

Patents; copyrights.

(8) To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

Inferior courts.

(9) To constitute Tribunals inferior to the supreme Court;

Piracies; felonies.

(10) To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

War.

(11) To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

Army; appropriations.

(12) To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

Navy.

(13) To provide and maintain a Navy;

Military affairs.

(14) To make Rules for the Government and Regulation of the land and naval Forces;

Militia.

(15) To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

Organization, arming and discipline of militia.

(16) To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

Exclusive legislation over seat of government, other places.

(17) To exercise exclusive Legislation in all Cases whatsoever, over such District not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

Execution of powers granted.

(18) To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Limitations of the powers of congress; importation of certain persons.

Section. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to

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the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

Same; habeas corpus.

(2) The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Same; bill of attainder; ex post facto.

(3) No Bill of Attainder or ex post facto Law shall be passed.
EX POST FACTO: See clause 10 of section 10 of this article.

Same; direct tax.

(4) No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

Same; exportations from states.

(5) No Tax or Duty shall be laid on Articles exported from any State.

Same; preference in interstate commerce.

(6) No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

Same; expenditures from treasury.

(7) No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Same; titles of nobility; gifts from foreign states.

(8) No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever from any King, Prince, or foreign State.

Limitations of powers of individual states; prohibited powers.

Section. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

Same; concurrent powers; duties.

(2) No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

Same; other concurrent powers.

(3) No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II.

Executive power; term of president.

Section. 1. The executive Power shall be vested in a President of the United States

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of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Electors; manner of choice, persons disqualified.

(2) Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

Same; meeting and proceedings.

(3) The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

All the provisions in the above subsection that provide for the manner of electing a President and Vice President are superseded by the twelfth amendment.

Same; time of choice.

(4) The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

Qualifications of president.

(5) No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

Devolution of powers upon vice president.

(6) In Case of the Removal of the President from Office, or of his death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

NOTE: By Act of Congress, January 19, 1886, 3 U. S. C. A. § 21, provision was made for filling the office of President in case of the removal, death, resignation, or inability of both the President and Vice President, and devolved the office upon certain members of the President's Cabinet in the following order of precedence: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney General, Postmaster General, Secretary of the Navy, and Secretary of the Interior.

President elect, death, failure to choose, or disqualification, order of succession, see amendment XX, Secs. 3 and 4.

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Compensation of president.

(7) The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Oath of office.

(8) Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Powers of president.

Section. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

Treaties and appointments.

(2) He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Filling vacancies.

(3) The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Messages to congress; extra sessions; ambassadors; laws, execution; commissioning officers.

Section. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Officers liable to impeachment.

Section. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article. III.

Judicial power; judges, term, compensation.

Section. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices

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during good Behaviour, and shall, at stated Times receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Extent of judicial power.

Section. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

See amendment XI.

Original and appellate jurisdiction of supreme court.

(2) In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such regulations as the Congress shall make.

Jury trials for crimes.

(3) The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Treason; defined; trial.

Section. 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

Same; punishment.

(2) The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV.

Full faith and credit of public acts, records, etc., of each state; proof; effect.

Section. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Citizenship; privileges and immunities.

Section. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

Extradition; fugitives from justice.

(2) A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

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Same; fugitive slaves.

(3) No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Admission of new states.

Section. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

Power of congress over federal territory and property.

(2) The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Republican form of government guaranteed; protection from invasion and domestic violence.

Section. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article. V.

Amendment of the constitution, procedure.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or be Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

Article. VI.

Public debt.

(1) All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

Constitution, supreme law of land.

(2) This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Oath of office; religious test prohibited.

(3) The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United

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States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article. VII.

Ratification of constitution.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

done in Convention by the Unanimous Consent of the State present the Seventeenth Day of September in the Year of Our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. In witness whereof We have hereunto subscribed our Names,

GO: WASHINGTON—*Presidt.*
and deputy from Virgina.

Attest WILLIAM JACKSON Secretary

New Hampshire	JOHN LANGDON NICHOLAS GILMAN
Massachusetts	NATHANIEL GORHAM RUFUS KING
Connecticut	WM: SAML. JOHNSON ROGER SHERMAN
New York	ALEXANDER HAMILTON
New Jersey	WIL. LIVINGSTON DAVID BREARLEY. WM: PATERSON. JONA: DAYTON
Pennsylvania	B FRANKLIN THOMAS MIFFLIN ROBT MORRIS GEO. CLYMER THOS. FITZSIMONS JARED INGERSOLL JAMES WILSON GOUV MORRIS
Delaware	GEO: READ GUNNING BEDFORD jun JOHN DICKINSON RICHARD BASSETT JACO: BROOM
Maryland	JAMES MCHENRY DAN OF ST THOS. JENIFER DANL CARROLL
Virginia	JOHN BLAIR— JAMES MADISON JR.
North Carolina	WM: BLOUNT RICHD. DOBBS SPAIGHT HU WILLIAMSON
South Carolina	J. RUTLEDGE CHARLES COTESWORTH PINCKNEY CHARLES PINCKNEY PIERCE BUTLER.
Georgia	WILLIAM FEW ABR BALDWIN

RATIFICATION: The thirteen states ratified the constitution in the following order: Delaware, Dec. 7, 1787; Pennsylvania, Dec. 12, 1787; New Jersey, Dec. 18, 1787; Georgia, Jan. 2, 1788; Connecticut, Jan. 9, 1788; Massachusetts, Feb. 6, 1788; Maryland, Apr. 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; New York, July 26, 1788; North Carolina, Nov. 21, 1789; Rhode Island, May 29, 1790.

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ARTICLES
IN
ADDITION TO, AND AMENDMENT OF
THE
CONSTITUTION OF THE UNITED STATES
OF AMERICA

PROPOSED BY CONGRESS AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE CONSTITUTION

ARTICLE I

Religious freedom; freedom of speech and press; right to peaceably assemble and petition.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

HISTORY: FIRST TEN AMENDMENTS: Amendments I to X, inclusive, were proposed at the first session of the first congress of the United States, which was begun and held at the city of New York, on the 4th of March, 1789, and were adopted by the requisite number of states, as follows: New Jersey, Nov. 20, 1789; Maryland, Dec. 19, 1789; North Carolina, Dec. 22, 1789; South Carolina, Jan. 19, 1790; New Hampshire, Jan. 25, 1790; Delaware, Jan. 28, 1790; Pennsylvania, March 10, 1790; New York, March 27, 1790; Rhode Island, June 15, 1790; Vermont, Nov. 3, 1791; and Virginia, Dec. 15, 1791. These ten amendments are in the nature of a bill of rights and apply only to the national government.

ARTICLE II

Right to bear arms.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE III

Quartering soldiers.

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

Unreasonable searches and seizures; search warrants.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

Rights of persons charged with crimes; guaranty of life, liberty and property.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

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ARTICLE VI

Trials of criminal cases; rights of accused.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

ARTICLE VII

Trial by jury in civil cases.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail, fines and punishments.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

Rights of people.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X

Powers reserved to the states, people.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI

Limitation of judicial powers.

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

HISTORY. Proposed at the first session of the third congress, Sept. 5, 1794, and declared in a message from the president to congress, dated January 8, 1795, to have been ratified by the legislatures of three-fourths of the states.

ARTICLE XII

Manner of electing president and vice president; qualifications of vice president.

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be

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the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

HISTORY: Proposed at the first session of the eighth congress, December 12, 1803, in lieu of the original third paragraph of sec. 1, art. II, and declared in a proclamation of the secretary of state, dated September 25, 1804, to have been ratified by the legislatures of three-fourths of the states.

This amendment supersedes clause 3 of section 1 of article II.

ARTICLE XIII

Prohibition of slavery.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Power of congress.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

HISTORY: Proposed at the second session of the thirty-eighth congress, February 1, 1865, and declared in a proclamation of the secretary of state, dated December 18, 1865, to have been ratified by the legislatures of twenty-seven of the thirty-six states, viz.: Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina and Georgia.

ARTICLE XIV

Citizenship; security of persons and property, due process and equal protection clauses.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Apportionment of representatives.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participa-

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tion in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Disability to hold office, removal.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Validity of public dept; void obligations.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Power of congress.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

HISTORY: Proposed at the first session of the thirty-ninth congress, June 16, 1866. On July 21, 1868, congress adopted a concurrent resolution declaring that "the legislatures of the states of Connecticut, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, New Hampshire, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, Louisiana, Rhode Island, Wisconsin, Pennsylvania, and Michigan, being three-fourths and more of the several states of the union, have ratified the fourteenth article of amendment to the constitution of the United States, duly proposed by two-thirds of each house of the thirty-ninth congress; therefore, Resolved, That said fourteenth article is hereby declared to be a part of the constitution of the United States, and it shall be duly promulgated as such by the secretary of state." The secretary of state accordingly issued a proclamation dated July 28, 1868, declaring that the proposed fourteenth amendment had been ratified by the legislatures of thirty of the thirty-six states, including the above named with the addition of Georgia.

ARTICLE XV

Right of citizens to vote; race; color.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude

Power of congress.

Section 2. The Congress shall have power to enforce this article by appropriate legislation

HISTORY: Proposed at the first session of the fortieth congress, February 27, 1869, and declared in a proclamation of the secretary of state, dated March 30, 1870, to have been ratified by the legislatures of twenty-nine of the thirty-seven states.

ARTICLE XVI

Income tax.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

HISTORY: This amendment was proposed to the legislatures of the several states by the Sixty-first Congress, July 12, 1909, and declared in a proclamation of the Secretary of State, dated Feb. 25th, 1913, to have been ratified by the legislatures of thirty-eight of the forty-eight states.

ARTICLE XVII

United States senate; membership, election, term, vote.

The Senate of the United States shall be composed of two Senators from each State,

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elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

Same; filling of vacancies.

(2) When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

Application of amendment.

(3) This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

HISTORY: This amendment was proposed to the legislatures of the several states by the Sixty-second Congress, May 16, 1912, and declared in a proclamation of the Secretary of State, dated May 31, 1913, to have been ratified by the legislatures of thirty-six of the forty-eight states.

ARTICLE XVIII

Sections 1-3.

HISTORY: This amendment was proposed to the legislatures of the several states by the Sixty-fifth Congress, December 19, 1917, and declared in the proclamation of the Secretary of State, dated January 29, 1919, to have been ratified by the legislatures of thirty-six of the forty-eight states.

This amendment which prohibited the manufacture, sale or transportation of intoxicating liquors within, the importation into or exportation from, the United States for beverage purposes was repealed by the Twenty-first Amendment, ratified on December 5, 1933.

ARTICLE XIX

Right to vote; sex; enforcement.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

HISTORY: This amendment was proposed to the legislatures of the several states by the Sixty-sixth Congress, June 5, 1919, and declared in the proclamation of the Secretary of State, dated August 26, 1920, to have been ratified by the legislatures of thirty-six of the forty-eight states.

ARTICLE XX

Terms of office, commencement.

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Congress, time of assembly.

Sec. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

President elect, death, etc., order of succession.

Sec. 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

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Same, congressional act.

Sec. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

HISTORY: This amendment was proposed to the legislatures of the several states by the Seventy-Second Congress, on March 3, 1932, and was declared, in a proclamation by the Secretary of State, dated Feb. 6, 1933, to have been ratified by the legislatures of the states of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming—said states constituting three-fourths of the whole number of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

Sections 1 and 2 took effect on the 15th day of October following ratification by the legislatures of three-fourths of the several states.

ARTICLE XXI

Repeal of 18th amendment.

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Transportation or importation of intoxicating liquors.

Sec. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

HISTORY: This amendment to the Constitution was proposed to the several states by the Seventy-Second Congress, on Feb. 20, 1933, and was declared, in a proclamation by the Secretary of State, dated Dec. 5, 1933, to have been ratified by conventions in the States of Arizona, Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming—said states constituting three-fourths of the whole number of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

ARTICLE XXII

Limitation of presidential terms.

Section 1. No person shall be elected to the office of President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President, or acting as President, during the remainder of such term.

HISTORY: This amendment was proposed to the legislatures of the several states by the Eightieth Congress, on March 24, 1947, and was declared in a certifying statement of the Administrator of General Services, dated March 1, 1951, to have been ratified by the legislatures of the states of Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin, Wyoming, said states constituting three-fourths of the whole number of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

ARTICLE XXIII

Presidential electors for the District of Columbia.

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

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Power of Congress.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

HISTORY: This amendment was proposed to the legislatures of the several states by the Eighty-sixth Congress on June 16, 1960, and was declared in a certifying statement of the Administrator of General Services, dated April 3, 1961, to have been ratified by the legislatures of the states of Alaska, Arizona, California, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin, Wyoming, said states constituting three-fourths of the whole number of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

ARTICLE XXIV

Right to vote in federal election not to be denied because of failure to pay poll or other tax.

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Power of Congress.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

HISTORY: This amendment was proposed to the legislatures of the several states by the Eighty-seventh Congress on August 27, 1962, and was declared in a certifying statement of the Administrator of General Services, dated February 4, 1964 to have been ratified by the legislatures of the states of Alaska, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, said states constituting three-fourths of the whole number of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

ARTICLE XXV

Succession to Presidency.

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Succession to Vice Presidency.

Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Disability of President; declaration of President.

Sec. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Disability of President; declaration by Vice President and officers of executive departments; removal of disability.

Sec. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of

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such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not is session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

HISTORY: This amendment was proposed to the legislatures of the several states by the Eighty-ninth Congress on July 6, 1965, and was declared in a certifying statement of the Administrator of General Services, dated February 23, 1967, to have been ratified by the legislatures of the states of Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, said states constituting three-fourths of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

ARTICLE XXVI

Right to vote; citizens eighteen years of age or older.

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Power of Congress.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

HISTORY: This amendment was proposed to the legislatures of the several states by the Ninety-second Congress on March 23, 1971, and was declared in a certifying statement of the Administrator of General Services dated July 5, 1971, to have been ratified by the legislatures of the states of Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington, West Virginia, Wisconsin, said states constituting three-fourths of the whole number of states in the United States, and certified as valid to all intents and purposes as a part of the Constitution of the United States.

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PRELIMINARY CHAPTER IV

LAWS OF THE UNITED STATES
IN RELATION TO THE
AUTHENTICATION OF LEGISLATIVE ACTS, JUDICIAL PROCEEDINGS, AND OTHER RECORDS

§1738. Authentication of legislative acts; proof of judicial proceedings of State.

The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto.

The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

HISTORY: June 25, 1948, c. 646, 28 U. S. C. A. sec. 1738.

§1739. Proof of nonjudicial records.

All nonjudicial records or books kept in any public office of any State, Territory or Possession of the United States, or copies thereof, shall be proved or admitted in any court or office in any other State, Territory, or Possession by the attestation of the custodian of such records or books, and the seal of his office annexed, if there be a seal, together with a certificate of a judge of a court of record of the county, parish, or district in which such office may be kept, or of the Governor, or secretary of state, the chancellor or keeper of the great seal, of the State, Territory, or Possession that the said attestation is in due form and by the proper officers.

If the certificate is given by a judge, it shall be further authenticated by the clerk or prothonotary of the court, who shall certify, under his hand and the seal of his office, that such judge is duly commissioned and qualified; or, if given by such Governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the State, Territory, or Possession in which it is made.

Such records or books, or copies thereof, so authenticated, shall have the same full faith and credit in every court and office within the United States and its Territories and Possessions as they have by law or usage in the courts or offices of the State, Territory, or Possession from which they are taken.

HISTORY: June 25, 1948, c. 646, 62 Stat. 947;—28 U. S. C. A. sec. 1739.

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PRELIMINARY CHAPTER V

GOVERNMENT OF THE NORTHWEST TERRITORY

[THE CONFEDERATE CONGRESS, JULY 13, 1787]

An Ordinance for the government of the Territory of the United States, northwest of the river Ohio.

Temporary government.

[Sec. 1.]*Be it ordained by the United States, in Congress assembled,* that the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

HISTORY. Bioren & Duane's Laws, U. S., v. 1, p. 475;— 1 Stat. 51;—44 Stat. 1851.

NOTE: This document has been compared with a photostatic copy of the LAWS OF THE TERRITORY OF THE UNITED STATES NORTH WEST OF THE OHIO printed by authority by W. Maxwell in 1796. The bracketed matter is included for purposes of compilation.

Rules of inheritance; dower; wills, conveyances, execution and recording; French and Canadian customs.

[Sec. 2.]*Be it ordained by the authority aforesaid,* that the estates, both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child, in equal parts; the descendants of a deceased child or grandchild, to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them their deceased parents' share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as herein after mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be (being of full age) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighbouring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Governor, term, residence, property qualifications.

[Sec. 3.]*Be it ordained by the authority aforesaid,* That there shall be appointed from time to time, by congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the

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district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

Secretary, term, residence, property qualification, duties; court, members, residence, property qualification, term.

[Sec. 4.]There shall be appointed from time to time, by congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings every six months to the secretary of Congress. There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.

Laws; adoption and publication, alteration.

[Sec. 5.]The governor and judges, or a majority of them shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

Officers of militia.

[Sec. 6.]The governor for the time being shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Civil officers, appointment, regulation.

[Sec. 7.]Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall during the continuance of this temporary government, be appointed by the governor.

Civil divisions of district, alteration.

[Sec. 8.]For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

Representative government; general assembly, apportionment, qualifications; electors' qualifications.

[Sec. 9.]So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; provided, that for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of

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representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the legislature; *Provided,* that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years, and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same; *Provided, also,* that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years' residence in the district shall be necessary to qualify a man as an elector of a representative.

Representatives, term, writ of election for filling vacancy.

[Sec. 10.]The representatives thus elected, shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

General assembly, constitution, powers; legislative council, members, term, nomination and appointment, qualifications; governor, powers.

[Sec. 11.]The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum. And the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly, when in his opinion it shall be expedient.

Oath; delegate to congress, election, powers.

[Sec. 12.]The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity and of office; the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

Purposes of ordinance.

[Sec. 13.]And for extending the fundamental principles of civil and religious liberty,

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which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory; to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils, on an equal footing with the original states, at as early periods as may be consistent with the general interest.

Articles of compact.

[Sec. 14.]*It is hereby ordained and declared, by the authority aforesaid,* that the following articles shall be considered as articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit:

Religious freedom.

ARTICLE I.No person demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

Bill of rights.

ARTICLE II.The inhabitants of the said territory shall always be entitled to the benefit of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with or affect private contracts or engagements, bona fide, and without fraud, previously formed.

Education; treatment of Indians.

ARTICLE III.Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent, and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars, authorized by Congress; but laws, founded in justice and humanity, shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

States a part of confederacy; apportionment of taxation; navigation rights.

ARTICLE IV.The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district, or districts or

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new states, as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of these districts or new states shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said Territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

States, number permitted; boundaries, alteration, prerequisites to admission, essential governmental principles.

ARTICLE V.There shall be formed in the said Territory, not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western state in the said Territory shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincents, due north to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line; provided however, and it is further understood and declared, that the boundaries of these three states, shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan: and whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original states in all respects whatever; and shall be at liberty to form a permanent Constitution and state government; *Provided,* the constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

Slavery prohibited, fugitives; resolutions repealed.

ARTICLE VI.There shall neither be slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crime, whereof the party shall have been duly convicted; *Provided,* always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service, as aforesaid.

Be it ordained by the authority aforesaid, that the resolutions of the twenty-third of April, one thousand seven hundred and eighty-four, relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void.

DONE by the United States in Congress assembled, thirteenth day of July, in the year of our Lord, one thousand seven hundred and eighty-seven, and of their sovereignty and independence the twelfth.

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1 Stat. 50; Approved Aug. 7, 1789.

An Act to provide for the Government of the Territory Northwest of the river Ohio.

Preamble.

Whereas, in order that the ordinance of the United States in Congress assembled for the government of the territory north-west of the river Ohio may, continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States:

Governor's communications to president; territorial officers, appointment and removal.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases in which by the said ordinance any information is to be given, or communication made by the governor of the said territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information, and to make such communication to the President of the United States; and the President shall nominate, and by and with advice and consent of the Senate, shall appoint all officers which, by the said ordinance, were to have been appointed by the United States in Congress assembled; and all officers, so appointed, shall be commissioned by him; and in all cases where the United States in Congress assembled, might, by the said ordinance, revoke any commission, or remove from any office, the President is hereby declared to have the same powers of revocation and removal.

Secretary to have powers of governor during vacancy.

Sec. 2. *And be it further enacted,* That in case of the death, removal, resignation or necessary absence of the governor of the said territory, the secretary thereof shall be, and he is hereby authorized and required to execute all the powers, and perform all the duties of the governor, during the vacancy occasioned by the removal, resignation, or necessary absence of the said governor.

See acts of May 7, 1800, Apr. 30, 1802, 2 Stat. 58, 173.

1 Stat. 285; Approved May 8, 1792.

An Act respecting the government of the territories of the United States northwest and south of the river Ohio.

Laws of the territory, printing and distribution.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the laws of the territory northwest of the river Ohio, that have been, or hereafter may be enacted, by the governor and judges thereof, shall be printed, under the direction of the Secretary of State, and two hundred copies thereof, together with ten sets of the laws of the United States, shall be delivered to the said governor and judges, to be distributed among the inhabitants for their information, and that a like number of the laws of the United States shall be delivered to the governor and judges of the territory southwest of the River Ohio.

Governor and judges authorized to repeal their laws.

Sec. 2. *And be it further enacted,* That the governor and judges of the territory northwest of the River Ohio shall be, and hereby are, authorized to repeal their laws, by them made, whensoever the same may be found to be improper.

Secretaries' official duties.

Sec. 3. *And be it further enacted,* That the official duties of the secretaries of the

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said territories shall be under the control of such laws, as are or may be in force in the said territories.

One supreme or superior judge may hold court.

Sec. 4. *And be it further enacted,* That any one of the supreme or superior judges of the said territories, in the absence of the other judges, shall be, and hereby is authorized to hold a court.

Seals for territorial offices.

Sec. 5. *And be it further enacted,* That the secretary of state, provide proper seals for the several and respective public offices in the said territories.

Limitation act passed by governor and judges disapproved.

Sec. 6. *And be it further enacted,* That the limitation act, passed by the governor and judges of the said territory, the twenty-eighth day of December, one thousand seven hundred and eighty-eight, be and hereby is disapproved.

Expenses of judges on circuit.

Sec. 7. *And be it further enacted,* That the expense incurred by John Cleves Symmes and George Turner, two of the judges of the said territory, in sending an express, and in purchasing a boat to go the circuit, in the year one thousand seven hundred and ninety, shall be liquidated by the officers of the treasury, and paid out of the treasury of the United States.

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PRELIMINARY CHAPTER VI

GOVERNMENT OF MICHIGAN TERRITORY

2 Stat. 309; Approved Jan. 11, 1805.

An Act to divide the Indiana Territory into two separate governments.

Michigan territory, separation from Indiana territory, boundaries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the thirtieth day of June next, all that part of the Indiana territory, which lies north of a line drawn east from the southerly bend or extreme of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the United States, shall, for the purpose of temporary government, constitute a separate territory, and be called Michigan.

For other federal statutes affecting Michigan Territory, see 3 Stat. pp. 482, 722, 769;—4 Stat. pp. 80, 200, 314, 413, 645, 650, 660, 701, 724, and 5 Stat. pp. 49, 56, 59, 144.

Government established; rights of inhabitants.

Sec. 2.*And be it further enacted,* That there shall be established within the said territory, a government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States, northwest of the river Ohio; and by an act passed on the seventh day of August, one thousand seven hundred and eighty-nine, entitled "An act to provide for the government of the territory northwest of the river Ohio;" and the inhabitants thereof shall be entitled to, and enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States, northwest of the river Ohio, by the said ordinance.

Officers of the territory, powers, duties, compensation.

Sec. 3.*And be it further enacted,* That the officers for the said territory, who by virtue of this act shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations, as by the ordinance aforesaid and the laws of the United States, have been provided and established for similar officers in the Indiana territory; and the duties and emoluments of superintendent of Indian affairs, shall be united with those of governor.

Government of Indiana territory not affected.

Sec. 4.*And be it further enacted,* That nothing in this act contained, shall be construed so as, in any manner, to affect the government now in force in the Indiana territory, further than to prohibit the exercise thereof within the said territory of Michigan, from and after the aforesaid thirtieth day of June next.

Litigation pending, procedure.

Sec. 5.*And be it further enacted,* That all suits, process, and proceeding, which, on

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the thirtieth day of June next, shall be pending in the court of any county, which shall be included within the said territory of Michigan; and also all suits, process, and proceedings, which on the said thirtieth day of June next, shall be pending in the general court of the Indiana territory, in consequence of any writ of removal, or order for trial at bar, and which had been removed from any of the counties included within the limits of the territory of Michigan aforesaid, shall, in all things concerning the same, be proceeded on, and judgments and decrees rendered thereon, in the same manner as if the said Indiana territory had remained undivided.

Detroit, seat of government.

Sec. 6. *And be it further enacted*, That Detroit shall be the seat of government of the said territory, until Congress shall otherwise direct.

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PRELIMINARY CHAPTER VII

ADMISSION OF MICHIGAN TO THE UNION

5 Stat. 49; Approved June 15, 1836.

An Act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed.

Northern boundary line of Ohio established.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the northern boundary line of the State of Ohio shall be established at, and shall be a direct line drawn from the southern extremity of Lake Michigan, to the most northerly cape of the Maumee (Miami) bay, after that line, so drawn, shall intersect the eastern boundary line of the State of Indiana; and from the said north cape of the said bay, northeast to the boundary line between the United States and the province of Upper Canada, in Lake Erie; and thence, with the said last mentioned line, to its intersection with the western line of the State of Pennsylvania.

Constitution of Michigan ratified; conditions of admission into the Union, boundaries of Michigan.

Sec. 2. *And be it further enacted,* That the Constitution and state government which the people of Michigan have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed; and that the said State of Michigan shall be, and is hereby, declared to be one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States, in all respects whatsoever: Provided always, and this admission is upon the express condition, that the said State shall consist of and have jurisdiction over all the territory included within the following boundaries, and over none other, to wit: Beginning at the point where the above described northern boundary of the State of Ohio intersects the eastern boundary of the State of Indiana, and running thence with the said boundary line of Ohio, as described in the first section of this act, until it intersects the boundary line between the United States and Canada, in Lake Erie; thence, with the said boundary line between the United States and Canada through the Detroit river, Lake Huron, and Lake Superior, to a point where the said line last touches Lake Superior; thence, in a direct line through Lake Superior, to the mouth of the Montreal river; thence through the middle of the main channel of the said river Montreal, to the middle of the Lake of the Desert; thence, in a direct line to the nearest head water of the Menomonie river; thence, through the middle of that fork of the said river first touched by the said line, to the main channel of the said Menomonie river; thence, down the centre of the main channel of the same, to the centre of the most usual ship channel of the Green bay of Lake Michigan; thence, through the centre of the most usual ship channel of the said bay to the middle of Lake Michigan; thence, through the middle of Lake Michigan, to the northern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence, due east, with the north boundary line of the said State of Indiana, to the northeast corner thereof; and thence, south, with the east boundary line of Indiana, to the place of beginning.

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Consent of Michigan required to boundaries described.

Sec. 3. *And be it further enacted,* That, as a compliance with the fundamental condition of admission contained in the last preceding section of this act, the boundaries of the said State of Michigan, as in that section described, declared, and established, shall receive the assent of a convention of delegates elected by the people of the said State, for the sole purpose of giving the assent herein required; and as soon as the assent herein required shall be given, the President of the United States shall announce the same by proclamation; and thereupon, and without any further proceeding on the part of Congress, the admission of the said State into the Union, as one of the United States of America, on an equal footing with the original States, in all respects whatever, shall be considered as complete, and the Senators and Representatives who have been elected by the said State as its representative in the Congress of the United States, shall be entitled to take their seats in the Senate and House of Representatives respectively, without further delay.

Public lands of United States in Michigan.

Sec. 4. *And be it further enacted,* That nothing in this act contained, or in the admission of the said State into the Union as one of the United States of America upon an equal footing with the original States in all respects whatever, shall be so construed or understood as to confer upon the people, Legislature, or other authorities of the said State of Michigan, any authority or right to interfere with the sale by the United States, and under their authority, of the vacant and unsold lands within the limits of the said State, but that the subject of the public lands, and the interests which may be given to the said state therein, shall be regulated by future action between Congress, on the part of the United States, and the said State, or the authorities thereof. And the said State of Michigan shall in no case and under no pretense whatsoever, impose any tax, assessment or imposition of any description upon any of the lands of the United States within its limits.

As to non-interference by the state with the disposal of United States lands, see note to Ordinance of 1787, Art. IV.

Laws of 1836, p. 57; July 25, 1836.

AN ORDINANCE relative to certain propositions made by the Congress of the United States, to the Legislature of the State of Michigan.

Preamble.

Whereas, The Congress of the United States did pass an act, approved the twenty-third day of June, one thousand eight hundred and thirty-six, making certain propositions for the acceptance or rejection of the Legislature of the State of Michigan, which said act is herein inserted, in the following words, to wit:

"An Act supplementary to an act entitled 'An Act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union, on certain conditions therein expressed.' "

Propositions of the United States.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in lieu of the propositions submitted to the congress of the United States by an ordinance passed by the convention of delegates at Detroit, assembled for the purpose of making a Constitution for the State of Michigan, which are hereby rejected; that the following propositions be, and the same are hereby, offered to the Legislature of the State of Michigan for their acceptance or rejection, which if accepted, under the authority conferred on the said Legislature by the convention which framed the constitution of the said State, shall be obligatory upon the United States.

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School lands.

First, That section numbered sixteen in every township of the public lands, and where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of schools.

University lands.

Second, That the seventy-two sections of land set apart and reserved for the use and support of a university by an act of congress, approved on the twentieth day of May, eighteen hundred and twenty six, entitled "An act concerning a seminary of learning in the territory of Michigan," are hereby granted and conveyed to the state, to be appropriated solely to the use and support of such university, in such manner as the legislature may prescribe; And provided, also, That nothing herein contained shall be so construed as to impair or affect in any way the rights of any person or persons claiming any of the said seventy-two sections of land, under contract or grant from said university.

Lands for public buildings.

Third, That five entire sections of land, to be selected and located under the direction of the Legislature, in legal divisions of not less than one quarter section, from any of the unappropriated lands belonging to the United States within the said state, are hereby granted to the state for the purpose of completing the public buildings of the said state, or for the erection of public buildings at the seat of government of the said state, as the Legislature may determine and direct.

Salt springs, and lands contiguous; leasing.

Fourth, That all salt springs within the state, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the said state for its use, the same to be selected by the legislature thereof, on or before the first of January, eighteen hundred and forty; and the same, when so selected, to be used on such terms, conditions, and regulations, as the legislature of the said state shall direct: Provided, that no salt spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said state: And provided, also, That the general assembly shall never sell or lease the same, at any one time, for a longer period than ten years, without the consent of congress.

Public roads, percentage of proceeds appropriated; unrestricted sale of United States lands; exemptions from taxation.

Fifth, That five per cent of the net proceeds of the sales of all public lands lying within the said state, which have been or shall be sold by congress, from and after the first day of July, eighteen hundred and thirty-six, after deducting all the expenses incident to the same, shall be appropriated for making public roads and canals within the said state, as the Legislature may direct; Provided, That the five foregoing propositions herein offered are on the condition that the legislature of the said state, by virtue of the powers conferred upon it by the convention which framed the constitution of the said state, shall provide, by an ordinance irrevocable without the consent of the United States that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations congress may find necessary for securing the title in such soil to the bona fide purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non resident proprietors be taxed higher than residents; and that the bounty lands granted, or hereafter to be granted for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt

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from any tax laid by order or under the authority of the state, whether for state, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively.

As to taxation of lands of the United States and of non-residents, see notes to Ordinance of 1787, Art. IV.

Acceptance of propositions of the United States; ordinance declared irrevocable without consent of the United States.

"Therefore,

Sec. 1.Be it enacted by the Senate and House of Representatives of the State of Michigan, That the five propositions offered to the said Legislature in the above recited act be, and each and every of them are hereby accepted "under the authority conferred on said Legislature by the convention which framed the constitution of said state". And for the purpose of complying with the conditions in the proviso to the fifth proposition contained in the above recited act, and by virtue of the powers conferred upon the said Legislature of said State by the convention aforesaid, the following ordinance is declared to be irrevocable without the consent of the United States.

Primary disposal of soil not interfered with by state; tax exemptions.

Be it ordained by the Senate and house of Representatives of the State of Michigan, That the said state shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations congress may find necessary for securing the title in such soil to the bona fide purchasers thereof; and that no tax shall be imposed on land the property of the United States; and that in no case shall non resident proprietors be taxed higher than residents; and that the bounty lands granted, or hereafter to be granted, for military services during the late war, shall while they continue to be held by the patentees or their heirs remain exempt from any tax laid by order or under the authority of the state, whether for state, county, township, or any other purposes, for the term of three years from and after the date of the patents respectively;

New proposition submitted to congress; lands for roads and canals; upper peninsular road.

And be it further ordained by the authority aforesaid that the following propositions be submitted to the congress of the United States which if assented to, by that body shall be obligatory on this state. Not less than five hundred thousand acres of the unappropriated public lands lying within said state shall be designated under the direction of the Legislature and granted the state for the purposes of internal improvement; said land or the proceeds of the sale thereof shall be appropriated to aid the state in constructing one or more rail roads or canals across the Peninsula from Lake Erie or Detroit river to Lake Michigan; and also to aid in the construction of such other roads and canals, and in the improvement of such rivers as the Legislature may designate.

That for the construction of a road from the mouth of Ontonagon river of Lake Superior, to the mouth of Menominee river of Green Bay, or some river of Green Bay north of said Menominee river, thence to the Sault Ste Marie, to be located under the direction of the Legislature, one section of land for each mile of said road shall be granted to said state, and all roads commenced by the United States and remaining unfinished in the state, shall be completed and put in repair at the expense of the United States.

ASSENT OF THE STATE OF MICHIGAN, to the act of congress of June fifteenth, eighteen hundred and thirty-six, given in convention at Ann Arbor, on the fifteenth day of December, eighteen hundred and thirty-six.

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Preamble.

WHEREAS, By an act of congress of June fifteenth, one thousand eight hundred and thirty-six, the Constitution and state government which the people of Michigan have formed for themselves is accepted, ratified and confirmed: And whereas, the admission of the state of Michigan into the Union, as one of the United States, is provided by the said act to be upon the express condition that the said state shall consist of and have jursidiction over all the territory included within the following boundaries, and over none other, to wit: "Beginning at the point where the described northern boundary of the state of Ohio intersects the eastern boundary of the state of Indiana, and running thence with the said boundary line of Ohio, as described in the first section of the said act, until it intersects the boundary line between the United States and Canada, in Lake Erie; thence with the said boundary line between the United States and Canada through the Detroit river, Lake Huron and Lake Superior, to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of said Montreal river, to the middle of the Lake of the Desert; thence in a direct line to the head waters of the Menomonie river; thence through the middle of that fork of the said river, first touched by the said line, to the main channel of the said Menomonie river; thence down the centre of the main channel of the same, to the centre of the most usual ship channel of the Green Bay of Lake Michigan; thence through the centre of the most usual ship channel of the same bay, to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the state of Indiana [as that line was established by the act of congress of the nineteenth of April, one thousand eight hundred and sixteen; thence due east, with the north boundary line of the said state of Indiana] to the northeast corner thereof; and thence south with the east boundary line of Indiana to the place of beginning."

And whereas, as a compliance with the condition of admission prescribed in the said act, it is provided and required in the said act that the above described boundaries of the state of Michigan shall receive the assent of a convention of delegates, elected by the people of the said state for the sole purpose of giving such assent;

And whereas, no authority or power is designated in the said act of congress, by which such convention shall be called or convened; but in the third section of said act, the right of the people of Michigan to elect said delegates, without any previous action of their constituted authorities, is clearly recognized and manifest: And whereas, the convention originated with, and speaks the voice of a great majority of the people of Michigan; and whereas, it is provided and enacted in the said act, that as soon as the assent therein required shall be given, the president of the United States shall announce the same by proclamation, and thereupon, and without any further proceedings on the part of congress, the admission of the said state into the union, as one of the United States of America, on an equal footing with the original states in all respects whatever, shall be considered complete.

Assent.

Now, therefore, this convention are of the opinion that the congress of the United States had no constitutional right to require the assent aforesaid, as a condition preliminary to the admission of the said state into the Union.

Nevertheless, as the congress have required such assent to the condition, and as the interest and prosperity of the state will be greatly advanced by our immediate admission into the union, as one of its sovereign states; and the people of the said state are solicitous to give to her sister states, and to the world, unequivocal proof of her desire to promote the tranquility and harmony of the confederacy, and to perpetuate the unity, liberty and prosperity of the country;

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Therefore, be it resolved, by the people of Michigan in convention assembled, that the assent required in the foregoing recited act of the congress of the United States, is hereby given.

This done in convention at Ann Arbor, this fifteenth day of December, in the year of our Lord one thousand eight hundred and thirty-six, and of the Independence of the United States of America the sixty-first.

5 Stat. 144; Approved Jan. 26, 1837.

An Act to admit the State of Michigan into the Union, upon an equal footing with the original States.

Preamble.

Whereas, in pursuance of the act of Congress of June the fifteenth, eighteen hundred and thirty-six, entitled "An act to establish the northern boundary of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed," a convention of delegates, elected by the people of the said State of Michigan, for the sole purpose of giving their assent to the boundaries of the said State of Michigan as described, declared, and established, in and by the said act, did, on the fifteenth of December, eighteen hundred and thirty-six, assent to the provisions of said act, therefore:

Admission of Michigan into the Union.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Michigan shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Considered state in carrying into effect act relative to deposits.

Sec. 2. *And be it further enacted,* That the Secretary of the Treasury, in carrying into effect the thirteenth and fourteenth sections of the act of the twenty-third of June, eighteen hundred and thirty-six, entitled "An act to regulate the deposites of the public money," shall consider the State of Michigan as being one of the United States.

As to the organization of the state government and admission to the union, see note to Art. V, ordinance of 1787.

Act June 23, 1836 is 5 Stat. 52.

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PRELIMINARY CHAPTER VIII

CONSTITUTION OF MICHIGAN
OF
1835

In convention, begun at the city of Detroit, on the second monday of May, in the year one thousand eight hundred and thirty five:

Preamble.

We, the PEOPLE of the territory of Michigan, as established by the Act of Congress of the Eleventh day of January, in the year one thousand eight hundred and five, in conformity to the fifth article of the ordinance providing for the government of the territory of the United States, North West of the River Ohio, believing that the time has arrived when our present political condition ought to cease, and the right of self-government be asserted; and availing ourselves of that provision of the aforesaid ordinance of the congress of the United States of the thirteenth day of July, one thousand seven hundred and eighty-seven, and the acts of congress passed in accordance therewith, which entitle us to admission into the Union, upon a condition which has been fulfilled, do, by our delegates in convention assembled, mutually agree to form ourselves into a free and independent state, by the style and title of "The State of Michigan," and do ordain and establish the following constitution for the government of the same.

Act January 11, 1805 is 2 Stat. 309, see preliminary chapter VI.
Ordinance of July 13, 1787 is 44 Stat. 1851, see preliminary chapter V.

ARTICLE I
BILL OF RIGHTS

Political power.

First. All political power is inherent in the people.

Right of the people.

2.Government is instituted for the protection, security, and benefit of the people; and they have the right at all times to alter or reform the same, and to abolish one form of government and establish another, whenever the public good requires it.

No exclusive privileges.

3.No man or set of men are entitled to exclusive or separate privileges.

Religious worship.

4.Every person has a right to worship Almighty God according to the dictates of his own conscience; and no person can of right be compelled to attend, erect, or support, against his will, any place of religious worship, or pay any tithes, taxes or other rates, for the support of any minister of the gospel or teacher of religion.

Support of religious societies; by state treasury prohibited.

5.No money shall be drawn from the treasury for the benefit of religious societies, or theological or religious seminaries.

Rights of conscience.

6.The civil and religious rights, privileges and capacities of no individual shall be diminished or enlarged on account of his opinions or belief concerning matters of religion.

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Freedom of speech and press.

7.Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Search and seizure.

8.The person, houses, papers and possessions of every individual shall be secure from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

Trial by jury.

9.The right of trial by jury shall remain inviolate.

Criminal prosecution; rights of accused.

10.In all criminal prosecutions, the accused shall have the right to a speedy and public trial by an impartial jury of the vicinage; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense, and in all civil cases, in which personal liberty may be involved, the trial by jury shall not be refused.

Same; prerequisite of presentment or indictment, exceptions.

11.No person shall be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or militia when in actual service in time of war or public danger.

Twice in jeopardy, bail, habeas corpus.

12.No person for the same offence, shall be twice put in jeopardy of punishment. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Right to bear arms.

13.Every person has a right to bear arms for the defense of himself and the state.

Military subordinate to civil power.

14.The military shall, in all cases, and at all times, be in strict subordination to the civil power.

Quartering of troops.

15.No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

Treason.

16.Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

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Attainder, ex post facto, impairment of contract.

17.No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall be passed.

Excessive bail, fines, punishment.

18.Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishments shall not be inflicted.

Taking property for public use; compensation.

19.The property of no person shall be taken for public use, without just compensation therefor.

Right to assemble and petition.

20.The people shall have the right freely to assemble together, to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

Acts void.

21.All acts of the legislature contrary to this or any other article of this Constitution, shall be void.

ARTICLE II

ELECTORS

Qualifications of electors.

1.In all elections, every white male citizen above the age of twenty-one years, having resided in the state six months next preceding any election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid, who may be a resident of this state at the time of the signing of this constitution, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote, except in the district, county,* or township in which he shall actually reside at the time of such election.

*See amendment No. 1.

Votes by ballot, exception.

2.All votes shall be given by ballot, except for such township officers as may, by law, be directed to be otherwise chosen.

Privilege from arrest, exceptions.

3.Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

Exemption from military duty; exception.

4.No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

Residence not lost on account of absence on public business.

5.No person shall be deemed to have lost his residence in this state, by reason of his absence on business of the United States, or of this state.

Residence not gained because of military service here.

6.No soldier, seaman or marine, in the army or navy of the United States, shall be deemed a resident of this state, in consequence of being stationed in any military or naval place within the same.

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ARTICLE III

DIVISION OF THE POWERS OF GOVERNMENT

Division of the powers of government.

1. The powers of the government shall be divided into three distinct departments; the Legislative, the Executive and the Judicial; and one department shall never exercise the powers of another, except in such cases as are expressly provided for in this constitution.

ARTICLE IV

LEGISLATIVE DEPARTMENT

Legislative power.

1. The Legislative power shall be vested in a Senate and House of Representatives.

Number of representatives and senators.

2. The number of the members of the House of Representatives shall never be less than forty-eight, nor more than one hundred; and the Senate shall at all times equal in number one third of the house of representatives, as nearly as may be.

Census, time of taking; apportionment of legislative members.

3. The Legislature shall provide by law for an enumeration of the inhabitants of this state in the years one thousand eight hundred and thirty-seven, and one thousand eight hundred and forty-five, and every ten years after the said last mentioned time: and at their first session after each enumeration so made as aforesaid, and also after each enumeration made by the authority of the United States, the legislature shall apportion anew the representatives and senators among the several counties and districts, according to the number of white inhabitants.

Election of legislators; representative.

4. The representatives shall be chosen annually on the first monday of November, and on the following day,* by the electors of the several counties or districts into which the State shall be divided for that purpose. Each organized county shall be entitled to at least one representative; but no county hereafter organized shall be entitled to a separate representative until it shall have attained a population equal to the ratio of representation hereafter established.

*See amendment No. 3.

Same; senator.

5. The Senators shall be chosen for two years, at the same time and in the same manner as the representatives are required to be chosen. At the first session of the legislature under this constitution, they shall be divided by lot from their respective districts, as nearly as may be, into two equal classes. The seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year: so that one-half thereof, as nearly as may be, shall be chosen annually thereafter.

Senatorial districts.

6. The State shall be divided, at each new apportionment, into a number of not less than four nor more than eight senatorial districts, to be always composed of contiguous territory; so that each district shall elect an equal number of senators annually, as nearly as may be: and no county shall be divided in the formation of such districts.

Qualification of senators and representatives.

7. Senators and representatives shall be citizens of the United States and be qualified

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electors in the respective counties and districts which they represent: and a removal from their respective counties or districts shall be deemed a vacation of their seats.

Ineligibility of certain officers.

8.No person holding any office under the United States, or of this state, officers of the militia, justices of the peace, associate judges of the circuit and county courts and postmasters excepted, shall be eligible to either house of the legislature.

Privilege from arrest.

9.Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest, nor shall they be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

Quorum, adjournment, attendance, officers.

10.A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties, as each house may provide. Each house shall choose its own officers.

Rules; each house judge of election of its members.

11.Each house shall determine the rules of its proceedings, and judge of the qualifications, elections and returns of its own members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election.

Journals; yeas and nays.

12.Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the request of one-fifth of the members present, be entered on the journal. Any member of either house shall have liberty to dissent from, and protest against, any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journal.

Elections, viva voce.

13.In all elections by either or both houses, the votes shall be given viva voce, and all votes on nominations made to the senate shall be taken by yeas and nays, and published with the journal of its proceedings.

Adjournment.

14.The doors of each house shall be open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the legislature may then be in session.

Bills; origin.

15.Any bill may originate in either house of the legislature.

Same; consideration by governor; reconsideration by legislature; pocket veto.

16.Every bill passed by the legislature shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it; if, after such reconsideration, two-thirds of all the members present agree to pass the bill, it shall be sent with the objec-

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tions to the other house, by whom it shall likewise be reconsidered and if approved also by two-thirds of all the members present in that house, it shall become a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively: And if any bill be not returned by the governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the legislature by their adjournment prevent its return, in which case it shall not become a law.

Resolutions treated as bills; exception.

17.Every resolution to which the concurrence of the senate and house of representatives may be necessary, except in cases of adjournment, shall be presented to the governor, and, before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

Compensation; increase.

18.The members of the legislature shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected; and such compensation shall never exceed three dollars a day.

Members excluded from civil appointment during term.

19.No member of the legislature shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he is elected.

Writs of elections for filling vacancies.

20.The governor shall issue writs of election, to fill such vacancies as may occur in the senate and house of representatives.

Meetings of the legislature.

21.The legislature shall meet on the first Monday in January in every year, and at no other period, unless otherwise directed by law, or provided for in this constitution.

Style of the laws.

22.The style of the laws of this State shall be: "Be it enacted by the Senate and House of Representatives of the State of Michigan."

ARTICLE V

EXECUTIVE DEPARTMENT

Governor and lieutenant governor; power, term.

1.The supreme executive power shall be vested in a Governor, who shall hold his office for two years; and a lieutenant Governor shall be chosen at the same time, and for the same term.

Same; eligibility.

2.No person shall be eligible to the office of Governor or lieutenant Governor who shall not have been five years a citizen of the United States, and a resident of this state two years next preceding the election.

Same; election.

3.The Governor and lieutenant Governor shall be elected by the electors at the times and places of choosing members of the legislature. The persons having the highest number of votes for Governor and lieutenant Governor shall be elected: but in case two or more have an equal and the highest number of votes for Governor or lieutenant

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Governor, the legislature shall, by joint vote, choose one of the said persons, so having an equal and the highest number of votes, for Governor or lieutenant Governor.

Same; returns of elections.

4.The returns of every election for Governor and lieutenant Governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the president of the senate, who shall open and publish them, in the presence of the members of both houses.

Governor; military power.

5.The Governor shall be commander-in-chief of the militia, and of the army and navy of this state.

Same; executive business.

6.He shall transact all executive business with the officers of government, civil and military; and may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Same; execution of the laws.

7.He shall take care that the laws be faithfully executed.

Same; special sessions of legislature, messages.

8.He shall have the power to convene the legislature on extraordinary occasions. He shall communicate by message, to the legislature, at every session the condition of the state, and recommend such matters to them as he shall deem expedient.

Same; adjournment of legislature in certain cases.

9.He shall have power to adjourn the legislature to such time as he may think proper, in case of a disagreement between the two houses with respect to the time of adjournment, but not to a period beyond the next annual meeting.

Same; place of meeting of legislature.

10.He may direct the legislature to meet at some other place than the seat of government, if that shall become, after its adjournment, dangerous from a common enemy, or a contagious disease.

Same; pardon power.

11.He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

Same; appointments to fill vacancies.

12.When any office, the appointment to which is vested in the Governor and senate or in the legislature, becomes vacant during the recess of the legislature, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the succeeding session of the legislature.

Powers and duties of governor; devolution on lieutenant governor.

13.In case of the impeachment of the Governor, his removal from office, death, resignation or absence from the state, the powers and duties of the office shall devolve upon the lieutenant Governor until such disability shall cease, or the vacancy be filled.

Same; devolution on president pro tempore of senate.

14.If, during the vacancy of the office of Governor, the lieutenant Governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the Senate *pro tempore*, shall act as Governor, until the vacancy be filled.

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Lieutenant governor ex officio president of senate.

15.The lieutenant Governor shall, by virtue of his office, be president of the Senate: In committee of the whole, he may debate on all questions; and when there is an equal division, he shall give the casting vote.

Office of governor; persons ineligible to execute.

16.No member of congress, nor any other person holding office under the United States, or this state, shall execute the office of Governor.

Same; lieutenant governor; filling of vacancy.

17.Whenever the office of Governor, or lieutenant Governor, becomes vacant, the person exercising the powers of governor for the time being shall give notice thereof, and the electors shall, at the next succeeding annual election for members of the legislature, choose a person to fill such vacancy.

Same; compensation.

18.The Governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he has been elected.

Lieutenant governor, compensation.

19.The lieutenant Governor, except when acting as Governor, and the president of the senate pro tempore, shall each receive the same compensation as shall be allowed to the speaker of the house of representatives.

Great seal for state.

20.A great seal for the state shall be provided by the Governor, which shall contain the device and inscriptions, represented and described in the papers relating thereto, signed by the president of the convention, and deposited in the office of the secretary of the territory. It shall be kept by the secretary of state; and all official acts of the Governor, his approbation of the laws excepted, shall be thereby authenticated.

Grants and commissions.

21.All grants and commissions shall be in the name, and by the authority, of the people of the state of Michigan.

ARTICLE VI

JUDICIAL DEPARTMENT

Judicial power.

1.The judicial power shall be vested in one supreme court, and in such other courts as the legislature may, from time to time, establish.

Supreme court, judges, term, appointment, compensation.

2.The judges of the supreme court shall hold their offices for the term of seven years; they shall be nominated, and by and with the advice and consent of the senate, appointed by the Governor. They shall receive an adequate compensation, which shall not be diminished during their continuance in office. But they shall receive no fees nor perquisites of office, nor hold any other office of profit or trust under the authority of this state or of the United States.

Probate courts.

3.A Court of Probate shall be established in each of the organized counties.

County, circuit and probate judges, election, term.

4.Judges of all County Courts, Associate Judges of Circuit Courts, and Judges of Probate, shall be elected by the qualified electors of the county in which they reside, and shall hold their office for four years.

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Clerks.

5.The Supreme Court shall appoint their Clerk or Clerks; and the electors of each county shall elect a clerk, to be denominated a County Clerk, who shall hold his office for the term of two years, and shall perform the duties of clerk to all the courts of record to be held in each county, except the supreme court and court of probate.

Justices of the peace, term.

6.Each township may elect four justices of the peace, who shall hold their offices for four years; and whose powers and duties shall be defined and regulated by law. At their first election, they shall be classed and divided by lot into numbers one, two, three and four, to be determined in such manner as shall be prescribed by law; so that one justice shall be annually elected in each township thereafter. A removal of any justice from the township in which he was elected shall vacate his office. In all incorporated towns, or cities, it shall be competent for the legislature to increase the number of justices.

Style of process.

7.The style of all process shall be "In the name of the people of the state of Michigan:" and all indictments shall conclude against the peace and dignity of the same.

ARTICLE VII

CERTAIN STATE AND COUNTY OFFICERS

Secretary of state, term, appointment, duties.

1.There shall be a secretary of state, who shall hold his office for two years, and who shall be appointed by the Governor, by and with the advice and consent of the senate. He shall keep a fair record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall perform such other duties as shall be assigned him by law.

State treasurer; appointment, term.

2.A state Treasurer shall be appointed by a joint vote of the two houses of the legislature, and shall hold his office for the term of two years.

Auditor general, attorney general, prosecuting attorneys, appointment, term.

3.There shall be an Auditor General and an Attorney General for the state, and a prosecuting Attorney for each of the respective counties, who shall hold their offices for two years, and who shall be appointed by the Governor, by and with the advice and consent of the senate, and whose powers and duties shall be prescribed by law.

County officers, election, terms; sheriff's security.

4.There shall be a sheriff, a county Treasurer, and one or more Coroners, a Register of Deeds and a County Surveyor, chosen by the electors in each of the several counties once in every two years, and as often as vacancies shall happen. The Sheriff shall hold no other office, and shall not be capable of holding the office of sheriff longer than four in any term of six years; he may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant; but the county shall never be made responsible for the acts of the sheriff.

ARTICLE VIII

IMPEACHMENTS AND REMOVALS FROM OFFICE

Impeachments.

1.The house of representatives shall have the sole power of impeaching all civil of-

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ficers of the state, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall be necessary to direct an impeachment.

Same; procedure.

2. All impeachments shall be tried by the Senate. When the Governor or lieutenant Governor shall be tried, the chief justice of the Supreme Court shall preside. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question, according to the evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office; but the party convicted shall be liable to indictment and punishment according to law.

Power of governor to remove judges.

3. For any reasonable cause, which shall not be sufficient ground for the impeachment of the judges of any of the Courts, the Governor shall remove any of them on the address of two-thirds of each branch of the legislature; but the cause, or causes, for which such removal may be required, shall be stated at length in the address.

Removal of county and township officers.

4. The legislature shall provide by law for the removal of justices of the peace and other county and township officers, in such manner, and for such cause, as to them shall seem just and proper.

ARTICLE IX
MILITIA

Militia; organization and discipline.

1. The legislature shall provide by law for organizing and disciplining the militia in such manner as they shall deem expedient, not incompatible with the constitution and laws of the United States.

Same; discipline of officers.

2. The legislature shall provide for the efficient discipline of the Officers, commissioned and non-commissioned, and musicians, and may provide by law for the organization and discipline of Volunteer Companies.

Same; election or appointment of officers.

3. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct, and shall be commissioned by the Governor.

Same; called forth by governor, purposes.

4. The Governor shall have power to call forth the militia to execute the laws of the state, to suppress insurrections and repel invasions.

ARTICLE X
EDUCATION

Superintendent of public instruction, appointment, term.

1. The Governor shall nominate, and, by and with the advice and consent of the legislature in joint vote, shall appoint a Superintendent of Public Instruction, who shall hold his office for two years, and whose duties shall be prescribed by law.

Perpetual fund for support of schools.

2. The legislature shall encourage, by all suitable means, the promotion of Intellectual, Scientifical and Agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, for the support of

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schools, which shall hereafter be sold or disposed of, shall be and remain a perpetual fund; the interest of which, together with the rents of all such unsold lands, shall be inviolably appropriated to the support of schools throughout the State.

Common school system, yearly term.

3.The legislature shall provide for a system of Common Schools, by which a school shall be kept up and supported in each school district, at least three months in every year; and any school district neglecting to keep up and support such a school may be deprived of its equal proportion of the interest of the public fund.

Libraries.

4.As soon as the circumstances of the state will permit, the legislature shall provide for the establishment of Libraries, one at least in each township; and the money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws, shall be exclusively applied for the support of said libraries.

University fund.

5.The legislature shall take measures for the protection, improvement or other disposition of such lands as have been, or may hereafter be, reserved or granted by the United States to this state for the support of a University; and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund for the support of said University, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts and sciences, and as may be authorized by the terms of such grant: and it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

ARTICLE XI

PROHIBITION OF SLAVERY

Slavery prohibited.

1.Neither slavery nor involuntary servitude shall ever be introduced into this state, except for the punishment of crimes of which the party shall have been duly convicted.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Official oath or affirmation, form.

1.Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, or affirm, (as the case may be) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of____according to the best of my ability." And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

Acts of incorporation, assent of two-thirds.

2.The legislature shall pass no act of incorporation, unless with the assent of at least two-thirds of each house.

Internal improvements, scope.

3.Internal improvement shall be encouraged by the government of this state; and it shall be the duty of the legislature, as soon as may be, to make provision by law for ascertaining the proper objects of improvement, in relation to roads, canals and naviga-

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ble waters; and it shall also be their duty to provide by law for an equal, systematic, economical application of the funds which may be appropriated to these objects.

Treasury withdrawals; annual statement, publication.

4.No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws annually.

Divorces.

5.Divorces shall not be granted by the legislature; but the legislature may by law authorize the higher courts to grant them under such restrictions as they may deem expedient.

Lotteries.

6.No lottery shall be authorized by this State nor shall the sale of lottery tickets be allowed.

Organization of counties.

7.No county now organized by law shall ever be reduced, by the organization of new counties, to less than four hundred square miles.

Location of state offices.

8.The Governor, Secretary of State, Treasurer, and Auditor General shall keep their offices at the seat of government.

Seat of government.

9.The seat of government for this State shall be at Detroit, or at such other place or places as may be prescribed by law, until the year eighteen-hundred and forty-seven, when it shall be permanently located by the legislature.

Governor and lieutenant governor, term.

10.The first Governor and lieutenant Governor shall hold their offices until the first monday of January, one thousand eight hundred and thirty-eight, and until others shall be elected and qualified: and thereafter, they shall hold their offices for two years, and until their successors shall be elected and qualified.

Successor's term.

11.When a vacancy shall happen, occasioned by the death, resignation, or removal from office of any person holding office under this state, the successor thereto shall hold his office for the period which his predecessor had to serve, and no longer, unless again chosen or reappointed.

ARTICLE XIII

MODE OF AMENDING AND REVISING THE CONSTITUTION

Constitutional amendments; legislative and referendum procedure.

1.Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen; and shall be published for three months previous to the time of making such choice: and if in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner, and at such time, as the legislature shall prescribe and if the people shall approve

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and ratify such amendment or amendments by a majority of the electors, qualified to vote for members of the legislature, voting thereon, such amendment or amendments shall become part of the constitution.

Constitutional convention.

2.And if at, any time, two-thirds of the senate and house of representatives shall think it necessary to revise or change this entire constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of a calling a convention, the legislature shall, at its next session, provide by law for calling a convention, to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature.

SCHEDULE

Preservation of rights of action, process.

1.That no inconvenience may arise from a change of the territorial government to a permanent state government, it is declared that all writs, actions, prosecutions, contracts, claims, and rights, of individuals and of bodies corporate, shall continue as if no change had taken place in this government; and all process which may, before the organization of the judicial department under this constitution, be issued under the authority of the territory of Michigan, shall be as valid as if issued in the name of the state.

Laws to remain in force.

2.All laws now in force in the territory of Michigan, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the legislature.

Fines, penalties and escheats to state.

3.All fines, penalties, forfeitures and escheats, accruing to the territory of Michigan, shall accrue to the use of the state.

Recognizances valid.

4.All recognizances heretofore taken, or which may be taken before the organization of the Judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the state. And all bonds executed to the governor of this territory, or to any other officer in his official capacity, shall pass over to the governor or other proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions, which have arisen or which may arise before the organization of the judicial department under this constitution, and which shall then be depending, may be prosecuted to judgment and execution in the name of the state.

Officers.

5.All officers, civil and military, now holding their offices and appointments in this territory under the authority of the United States, or under the authority of this territory, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution.

Election of state and federal officers.

6.The first election for governor, lieutenant governor, members of the state legislature, and a representative in the congress of the United States, shall be held on the first Monday in October next, and on the succeeding day. And the president of the

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convention shall issue writs to the sheriffs of the several counties or districts, or, in case of vacancy, to the coroners, requiring them to cause such election to be held on the days aforesaid, in their respective counties or districts. The election shall be conducted in the manner prescribed, and by the township officers designated as inspectors of elections, and the returns made as required, by the existing laws of the territory or by this constitution: Provided, however, that the returns of the several townships in the district composed of the unorganized counties of Ottawa, Ionia, Kent and Clinton, shall be made to the clerk of the township of Kent, in said district, and the said township clerk shall perform the same duties, as by the existing laws of the territory devolve upon the clerks of the several counties in similar cases.

First meeting of legislature.

7. The first meeting of the legislature shall be at the city of Detroit, on the first monday in November next, with power to adjourn to any other place.

County and township officers.

8. All county and township officers shall continue to hold their respective offices, unless removed by the competent authority, until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

Constitution submission to electors; time, return.

9. This constitution shall be submitted, at the election to be held on the first Monday in October next, and on the succeeding day, for ratification or rejection, to the electors qualified by this constitution to vote at all elections: and if the same be ratified by the said electors, the same shall become the constitution of the state of Michigan. At the election aforesaid, on such of the ballots as are for the said constitution, shall be written or printed the word "yes" and on those which are against the ratification of said constitution, the word "no." And the returns of the votes on the question of ratification or rejection of said constitution shall be made to the President of this convention at any time before the first monday in November next, and a digest of the same communicated by him to the Senate and House of Representatives on that day.

President of convention; duties on ratification.

10. And if this constitution shall be ratified by the people of Michigan, the president of this convention shall, immediately after the same shall be ascertained, cause a fair copy thereof, together with an authenticated copy of the act of the legislative council, entitled "An act to enable the people of Michigan to form a constitution and state government," approved January twenty-sixth, eighteen-hundred and thirty-five, providing for the calling of this convention, and also a copy of so much of the last census of this territory as exhibits the number of free inhabitants of that part thereof which is comprised within the limits in said constitution defined as the boundaries of the proposed State of Michigan, to be forwarded to the president of the United States, together with an expression of the decided opinion of this convention, that the number of the free inhabitants of said proposed state now exceeds the number requisite to constitute two congressional districts, and the respectful request of this convention in behalf of the people of Michigan, that all said matters may be by him laid before the congress of the United States at their next session.

NOTE Act of Jan. 26, 1835 is 1 Terr. Laws, p. 1356.

Secretaries to act in absence of president.

11. In case of the failure of the president of this convention to perform the duties prescribed by this constitution, by reason of his absence, death or from any other cause, said duties shall be performed by the Secretaries of this convention.

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Representatives and senators, apportionment.

12. Until the first enumeration shall be made as directed by this constitution, the County of Wayne shall be entitled to eight representatives; the county of Monroe to four representatives; the county of Washtenaw to seven representatives; the county of St. Clair to one representative; the County of St. Joseph to two representatives; the county of Berrien to one representative; the county of Calhoun to one representative; the county of Jackson to one representative; the county of Cass to two representatives; the county of Oakland to six representatives; the county of Macomb to three representatives; the county of Lenawee to four representatives; the county of Kalamazoo, and the unorganized counties of Allegan and Barry, to two representatives; the county of Branch to one representative; the county of Hillsdale to one representative; the county of Lapeer to one representative; the county of Saganaw and the unorganized counties of Genesee and Shiawasse to one representative; the county of Michilimackinac to one representative; the county of Chippewa to one representative; and the unorganized counties of Ottawa, Kent, Ionia and Clinton to one representative.

And for the election of senators, the state shall be divided into five districts, and the apportionment shall be as follows: The county of Wayne shall compose the first district, and elect three senators; the counties of Monroe and Lenawee shall compose the second district, and elect three senators; The Counties of Hillsdale, Branch, St. Joseph, Cass, Berrien, Kalamazoo and Calhoun shall compose the third district, and elect three senators; The counties of Washtenaw and Jackson shall compose the fourth district and elect three senators; And the counties of Oakland, Lapeer, Saganaw, Macomb, St. Clair, Michilimackinac and Chippewa shall compose the fifth district, and elect four senators.

Any country attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation in the legislature.

John Biddle
President.

AMENDMENTS

(The following amendment to the constitution was proposed by the legislature in 1838, referred to the legislature of 1839, agreed to in 1839 by two-thirds of all members elected to each house, submitted to the people and approved and ratified at an election held in November, 1839:)

AMENDMENT NO. I

That so much of the first section of the second article of the constitution as prescribes the place in which an elector may vote, and which is in these words, to wit: "district, county or township," be abolished, and that the following be substituted in the place thereof, to wit: "Township or ward." (See note).

(The following amendment was proposed in 1842, and referred to the next legislature, submitted to the people by a joint resolution, approved March 9, 1843, and approved and ratified at the election in November, 1843:)

AMENDMENT NO. II

That the constitution of this state be so amended, that every law authorizing the borrowing of money or the issuing of state stocks, whereby a debt shall be created on the credit of the state, shall specify the object for which the money shall be appropriated; and that every such law shall embrace no more than one such object, which shall be simply and specifically stated, and that no such law shall take effect until it shall be submitted to the people at the next general election, and be approved by a majority of the votes cast for and against it at such election; that all money to be raised by the au-

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thority of such law be applied to the specific object stated in such law, and to no other purpose, except the payment of such debt thereby created. This provision shall not extend or apply to any law to raise money for defraying the actual expenses of the legislature, the judicial and state officers, for suppressing insurrection, repelling invasion, or defending the state in time of war. (See note).

The following amendment was proposed in 1843, referred to the next legislature, agreed to in 1844 by two-thirds of all the members elected to each house, submitted to the people, and ratified and approved at the election in November, 1844:)

AMENDMENT NO. III

Strike out of section four of article four, the words "On the first Monday in November and on the following days," and insert the words "On the first Tuesday," so that said section will read:

The representatives shall be chosen annually on the first Tuesday of November, by the electors of the several counties or districts into which the state shall be divided for that purpose. (See note).

NOTE. Amendment No. 1. See Laws of Michigan, 1838, p. 288, and 1839, p. 261.

Amendment No. 2. See Laws of Michigan, 1842, p. 157, and 1843, p. 231. This amendment does not appear to have been agreed to by the legislature of 1843, as the constitution requires. All that appears in the published laws of that year in reference to it, is Joint Resolution No. 22, which provides that it be submitted to the people at the then next general election; but makes no provision for the return or canvas of the votes. The votes, however, were returned, and canvassed by the board of state canvassers, and the result thus ascertained to be in favor of the amendment.

It appears from the journal of the house of representatives for 1843, that on the 16th of February, the joint resolution of the previous legislature proposing this amendment, was called up, and the house refused to agree—yeas 34, nays 15; which vote was, on the same day, reconsidered (House Journal, p. 301, 303). On the 9th of March, "the joint resolution amending the constitution was considered, the rules suspended, and the same adopted," (House Journal, p. 350), but the yeas and nays were not entered upon the journal.

On the same day, the "joint resolution in relation to the amendment of the constitution," proposed by the legislature in 1842, was taken up in the senate and adopted—yeas 15, nays 3 (Senate Journal, p. 412). A message was afterwards on that day received from the house, transmitting a joint resolution in relation to amendment of constitution," which the house had passed, and the rule was thereupon suspended, and the resolution adopted, the yeas and nays not being entered upon the journal (Senate Journal, p. 418, 419).

On that day, a message from the senate was received by the house, returning "joint resolution in relation to the amendment of the constitution," and advising the house that the senate had concurred therein; and the same was thereupon ordered to be enrolled (House Journal, p. 533-4).

On the same day, a message was received by the house from the governor, advising the house that he had approved and deposited with the secretary of state, "joint resolution for amending the constitution of the state of Michigan," (House Journal, p. 538).

It seems therefore to be a matter of doubt whether the resolution of 1842, relative to borrowing money, etc., was actually agreed to by the legislature of 1843. The resolution for submitting the amendment to the people, is entitled "Joint Resolution."

Amendment No. 3, as proposed in 1843, was modified in form, but not in substance, by the joint resolution approved January 16, 1844. The words stricken out, and those inserted by the amendment, leave no designation of the month in which the election is to be holden, yet the section is made to read as though the words "of November" had not been stricken out.

The language of the amendment also implies that the reading of the whole of section 4, of article 4 of the constitution, is given in the resolution, whereas it includes only the first clause of that section.

The foregoing amendments and note appear in the Revised Statutes of 1846.)

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PRELIMINARY CHAPTER IX

CONSTITUTION OF MICHIGAN

OF

1850

PREAMBLE
ART.1. Boundaries.
ART.2. Seat of government.
ART.3. Division of the powers of government.
ART.4. Legislative department.
ART.5. Executive department.
ART.6. Judicial department.
ART.7. Elections.
ART.8. State officers.
ART.9. Salaries.
ART.10. Counties.
ART.11. Townships.
ART.12. Impeachments and removals from office.
ART.13. Education.
ART.14. Finance and taxation.
ART.15. Corporations.
ART.16. Exemptions.
ART.17. Militia.
ART.18. Miscellaneous provisions.
ART.19. Upper Peninsula.
ART.19a. Railroads.
ART.20. Amendments and revision of the Constitution.
Schedule.

Preamble.

The People of the State of Michigan do ordain this Constitution:

ARTICLE 1

BOUNDARIES

Territorial jurisdiction.

The State of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary line of the State of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee Bay shall intersect the same—said point being the north-west corner of the State of Ohio, as established by act of congress, entitled "An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed," approved June fifteenth, one thousand eight hundred and thirty-six; thence with the said boundary line of the State of Ohio till it intersects the boundary line between the United States and Canada in Lake Erie, thence with said boundary line between the United States and Canada through the Detroit river, Lake Huron and Lake Superior to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of the said river Montreal to the head waters thereof; thence in a direct line to the centre of the channel between Middle and South Islands in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore and down the river Brule to the main channel of the Menominie river; thence down the centre of the main channel of the same to the centre of the most usual ship channel of the Green Bay of Lake Michigan; thence through the centre of the most usual ship channel of the said bay to the middle of Lake Michigan; thence through the middle of Lake Michigan to the north-

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ern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary line of the said State of Indiana to the north-east corner thereof; and thence south with the eastern boundary line of Indiana to the place of beginning.

BOUNDARIES: The first constitution contained no boundaries, but asserted the right of admission to the union under art. V of the ordinance of 1787 and the acts of congress passed in accordance therewith. Const. 1835, preamble. The boundaries fixed in the act of congress of Jan. 11, 1805 (2 Stat. 309) were thus insisted upon. Michigan was finally admitted, however, with the boundaries prescribed in the act of congress of June 15, 1836 (5 Stat. 49), which are the same as the above.

Act April 19, 1816 is 3 Stat. 289.

ARTICLE 2

SEAT OF GOVERNMENT

Seat of government.

The Seat of Government shall be at Lansing, where it is now established.

SEAT OF GOVERNMENT: Detroit was the seat of government during territorial times and the first constitution (art. XII, sec. 9) continued there until 1847, when the legislature was to locate a permanent seat. Act 60 of that year located the seat of government "in the township of Lansing" and Act 65 of the same session provided for the platting of a village to be known as the "town of Michigan." By Act 237 of 1848 the name of the village was changed to Lansing.

ARTICLE 3

DIVISION OF THE POWERS OF GOVERNMENT

Departments of government.

Sec. 1.The powers of government are divided into three departments: The Legislative, Executive and Judicial.

NOTE: In the original copy of the Constitution of 1850, the word section is written out in full. Throughout the compilation, it has been the policy to preface all sections in this manner: Sec. 1., Sec. 2., et cetera.

Limitations of powers of officers.

Sec. 2.No person belonging to one department, shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution.

ARTICLE 4

LEGISLATIVE DEPARTMENT

Legislative power.

Sec. 1.The Legislative power is vested in a Senate and House of Representatives.

Senate; members; districts.

Sec. 2.The Senate shall consist of thirty-two members. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two inclusive; each of which shall choose one senator. No county shall be divided in the formation of senate districts, except such county shall be equitably entitled to two or more senators.

House of representatives; members; districts.

Sec. 3.The House of Representatives shall consist of not less than sixty-four, nor more then one hundred members. Representatives shall be chosen for two years, and by single districts. Each representative district shall contain, as nearly as may be, an equal number of inhabitants, exclusive of persons of Indian descent, who are not civilized, or are members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket, the number of representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate representative, when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one representative, the board of supervi-

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sors shall assemble at such time and place as the Legislature shall prescribe, and divide the same into representative districts, equal to the number of representatives to which such county is entitled by law, and shall cause to be filed in the offices of the secretary of State and clerk of such county, a description of such Representative districts, specifying the number of each district, and population thereof, according to the last preceding enumeration.

HISTORY: Am. J. R. No. 42, of 1869, Vol. I, p. 425, and ratified at the election of 1870. As at first adopted this section provided that each representative district should contain "an equal number of white inhabitants and civilized persons of Indian descent not members of any tribe."

Census, time of taking; reapportionment of senators and representatives.

Sec. 4.The Legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the legislature shall rearrange the Senate districts, and apportion anew the representatives among the counties and districts, according to the number of inhabitants, exclusive of persons of Indian descent, who are not civilized or are members of any tribe. Each apportionment, and the division into representative districts by any board of supervisors shall remain unaltered until the return of another enumeration.

HISTORY: Am. J. R. No. 42, 1869, Vol. 1, p. 425, Ratified Election of 1870. As at first adopted the section provided for an apportionment of representatives "according to the number of white inhabitants and civilized persons of Indian descent, not members of any tribe."

Members must be citizens; removal vacates office.

Sec. 5.Senators and Representatives shall be citizens of the United States and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their office.

Certain officers ineligible.

Sec. 6.No person holding any office under the United States [or this State,] or any county office except notaries public, officers of the militia and officers elected by townships shall be eligible to or have a seat in either house of the Legislature, and all votes given for any such person shall be void.

NOTE: The bracketed words above are omitted in the engrossed copy of the constitution, in the office of the Secretary of State. The enrolled copy submitted by the constitutional convention of 1850 includes such bracketed words.

Privilege of members from arrest.

Sec. 7.Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest. They shall not be subject to any civil process during the session of the Legislature, or for fifteen days next before the commencement and after the termination of each session. They shall not be questioned in any other place for any speech in either house.

Quorum.

Sec. 8.A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner, and under such penalties as each house may prescribe.

Officers; rules; expulsion.

Sec. 9.Each house shall choose its own officers, determine the rules of its proceedings and judge of the qualifications, elections and returns of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause; nor for any cause known to his constituents antecedent to his election; the reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

Journals; right of protest.

Sec. 10.Each house shall keep a journal of its proceedings, and publish the same, ex-

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cept such parts as may require secrecy. The yeas and nays of the members of either house, on any question, shall be entered on the journal at the request of one-fifth of the members elected. Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

HOUSE: See secs. 8 and 9, of this article.

Votes.

Sec. 11. In all elections by either house or in joint convention the votes shall be given viva voce. All votes on nominations to the Senate shall be taken by yeas and nays and published with the journal of its proceedings.

Doors open to public; adjournments.

Sec. 12. The doors of each house shall be open, unless the public welfare requires secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the Legislature may then be in session.

Bills.

Sec. 13. Bills may originate in either house of the legislature.

Bills and resolutions; governor's approval or veto; reconsideration.

Sec. 14. Every bill and concurrent resolution except of adjournment passed by the Legislature shall be presented to the Governor before it becomes a law. If he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon their journal, and reconsider it. On such reconsideration if two-thirds of the members elected agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall be reconsidered. If approved by two-thirds of the members elected to that house, it shall become a law. In such case, the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill be not returned by the Governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return, in which case it shall not become a law. The Governor may approve, sign, and file in the office of the Secretary of State, within five days after the adjournment of the Legislature, any act passed during the last five days of the session; and the same shall become a law.

Compensation of members; mileage; copy of laws.

Sec. 15. The compensation of the members of the Legislature shall be three dollars per day for actual attendance and when absent on account of sickness, but the legislature may allow extra compensation to the members from the territory of the Upper Peninsula, not exceeding two dollars per day during a session. When convened in extra session their compensation shall be three dollars a day for the first twenty days and nothing thereafter; and they shall legislate on no other subjects than those expressly stated in the Governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents and no more for every mile actually traveled, in going to and returning from the place of meeting, on the usually traveled route, and for stationery and newspapers not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals and documents of the legislature of which he was a member, but shall not receive, at the expense of the state, books, newspapers or other perquisites of office not expressly authorized by this constitution.

HISTORY: Am. J. R. No. 18, 1859, Ratified Election of 1860, first sentence only.

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Postage.

Sec. 16.The legislature may provide by law for the payment of postage on all mailable matter received by its members and officers during the sessions of the legislature, but not on any sent or mailed by them.

Compensation of president and speaker.

Sec. 17.The president of the senate, and the speaker of the house of representatives shall be entitled to the same per diem compensation and mileage as members of the legislature, and no more.

Appointment to other office; interest in state contracts.

Sec. 18.No person elected a member of the legislature shall receive any civil appointment within this state, or to the senate of the United States, from the governor, the governor and senate, from the legislature, or any other State authority, during the term for which he is elected. All such appointments and all votes given for any person so elected for any such office or appointments shall be void. No member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any county thereof, authorized by any law passed, during the time for which he is elected, nor for one year thereafter.

Three readings; final vote.

Sec. 19.Every bill and joint resolution shall be read three times in each house before the final passage thereof. No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills the vote shall be by ayes and nays, and entered on the journal.

Subject of bills; title; effective date.

Sec. 20.No law shall embrace more than one object, which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the legislature shall otherwise direct, by a two-thirds vote of the members elected to each house.

Extra compensation forbidden.

Sec. 21.The legislature shall not grant nor authorize extra compensation to any public officer, agent or contractor, after the service has been rendered or the contract entered into.

Fuel and printing contracts; interest of members.

Sec. 22.The legislature shall provide by law that the furnishing of fuel and stationery for the use of the state, the printing and binding the laws and journals, all blanks, paper and printing for the executive departments, and all other printing ordered by the legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof. The legislature shall prescribe by law the manner in which the state printing shall be executed, and the accounts rendered therefor; and shall prohibit all charges for constructive labor. They shall not rescind nor alter such contract, nor release the person or persons taking the same, or his or their sureties, from the performance of any of the conditions of the contract. No member of the legislature nor officer of the state, shall be interested directly or indirectly in any such contract.

Sale of real estate; vacating highways.

Sec. 23.The Legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person; nor vacate nor alter any road laid out by commissioners of highways, or any street in any city or village, or in any recorded town plat.

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Chaplain for state prison; religious services in legislature.

Sec. 24.The Legislature may authorize the employment of a Chaplain for the State Prison; but no money shall be appropriated for the payment of any religious services in either house of the Legislature.

Amendment or revision of laws.

Sec. 25.No law shall be revised, altered or amended by reference to its title only; but the act revised, and the section or sections of the act altered or amended shall be re-enacted and published at length.

Divorce.

Sec. 26.Divorces shall not be granted by the Legislature.

Lotteries.

Sec. 27.The Legislature shall not authorize any lottery, nor permit the sale of lottery tickets.

Sec. 28.Repealed.

HISTORY: Am. J. R. No. 18, 1859, Ratified Election of 1860. Repeal proposed by the Legislature of 1903, J. R. No. 2. Approved November election 1904.

Contested election; compensation.

Sec. 29.In case of a contested election, the person only shall receive from the state per diem compensation and mileage who is declared to be entitled to a seat by the house in which the contest takes place.

Ineligibility of certain persons.

Sec. 30.No collector, holder nor disburser of public moneys shall have a seat in the Legislature, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

Private claims.

Sec. 31.The Legislature shall not audit nor allow any private claim or account.

Final adjournment.

Sec. 32.The Legislature, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

Meeting of the legislature.

Sec. 33.The Legislature shall meet at the seat of government on the first Wednesday in January, in the year one thousand eight hundred and sixty-one, and on the first Wednesday of January, in every second year thereafter, and at no other place or time, unless as provided in the constitution of the State, and shall adjourn without day at such time as the Legislature shall fix by concurrent resolution.

HISTORY: Am. J. R. No. 18, 1859, Ratified Election of 1860.

Election of members.

Sec. 34.The election of Senators and Representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and fifty two, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

State paper.

Sec. 35.The legislature shall not establish a State paper.

HISTORY: Am. J. R. No. 9, 1901, Ratified Election of 1902.

Publication of statutes and judicial decisions.

Sec. 36.The legislature shall provide for the speedy publication of all statute laws of

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a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

Vacancies.

Sec. 37.The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

Delegation of legislative power.

Sec. 38.The legislature may confer upon organized townships, incorporated cities and villages, and upon the board of supervisors of the several counties, such powers of a local, legislative and administrative character as they may deem proper.

Religious liberty.

Sec. 39.The Legislature shall pass no law to prevent any person from worshiping Almighty God according to the dictates of his own conscience, or to compel any person to attend, erect, or support any place of religious worship, or to pay tithes, taxes or other rates for the support of any Minister of the gospel or teacher of religion.

Appropriations for religious purposes forbidden.

Sec. 40.No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary, nor shall property belonging to the state be appropriated for any such purposes.

Opinions concerning religion.

Sec. 41.The Legislature shall not diminish or enlarge the civil or political rights, privileges and capacities of any person on account of his opinion or belief concerning matters of religion.

Liberty of speech and press.

Sec. 42.No law shall ever be passed to restrain or abridge the liberty of speech or of the press; but every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right.

Attainder; ex post facto laws; impairment of contracts.

Sec. 43.The Legislature shall pass no bill of attainder, ex post facto law, or law impairing the obligation of contracts.

Habeas Corpus.

Sec. 44.The privilege of the writ of habeas corpus remains and shall not be suspended by the Legislature, except in case of rebellion or invasion, the public safety require it.

Appropriations for local or private purposes.

Sec. 45.The assent of two-thirds of the members elected to each house of the Legislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

Trial by jury.

Sec. 46.The Legislature may authorize a trial by a jury of a less number than twelve men.

Indeterminate sentences.

Sec. 47.The legislature may, by law, provide for the indeterminate sentences, so called, as a punishment for crime, on conviction thereof, and for the detention and release of persons imprisoned or detained on said sentences.

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HISTORY. By amendment proposed by the Legislature of 1875, J. R. No. 21, and ratified by the people at the November election of 1876, section 47, article 4, prohibiting license of the sale of intoxicating liquors, was stricken out. By amendment proposed by the Legislature of 1901, J. R. No. 11, and ratified November election 1902, the section as above was inserted.

Style of laws.

Sec. 48. The style of the laws shall be "The People of the State of Michigan enact."

County and township roads, etc., taxation, indebtedness.

Sec. 49. The Legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges and culverts by counties and townships, and may authorize counties to take charge and control of any highways within their limits for such purposes; and may modify, change or abolish the powers and duties of township commissioners and overseers of highways. But the tax raised in any one year shall not exceed two dollars upon each one thousand dollars valuation, according to the assessment roll of the county for the preceding year. The Legislature may also prescribe the powers and duties of boards of supervisors in relation to highways, bridges and culverts, and may provide for one or more county road commissioners, to be elected by the people, or appointed, with such powers and duties as may be prescribed by law.

No county shall incur any indebtedness for any purposes in excess of three per cent of the valuation, according to the last assessment roll, and no such indebtedness beyond one-half of one per cent of such valuation shall be incurred, unless authorized by a majority of the electors of said county voting thereon: Provided, That any county road system provided by law shall not go into operation in any county until the electors of said county, by a majority vote, have declared in favor of adopting the county road system.

HISTORY. Add. J. R. No. 11, 1893, Ratified Election of 1893;—Am. J. R. No. 5, 1899, Ratified April Election of 1899.

ARTICLE 5

EXECUTIVE DEPARTMENT

Governor; lieutenant governor.

Sec. 1. The executive power is vested in a Governor, who shall hold his office for two years. A Lieutenant Governor shall be chosen for the same term.

Eligibility.

Sec. 2. No person shall be eligible to the office of Governor, or Lieutenant Governor, who has not been five years a citizen of the United States, and a resident of this State two years next preceding his election; nor shall any person be eligible to either office who has not attained the age of thirty years.

Election.

Sec. 3. The Governor and Lieutenant Governor shall be elected at the times and places of choosing the members of the Legislature. The person having the highest number of votes for Governor or Lieutenant Governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for Governor or Lieutenant Governor, the Legislature shall, by joint vote, choose one of such persons.

Power of governor.

Sec. 4. The Governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, to suppress insurrections and to repel invasions.

Executive Business.

Sec. 5. He shall transact all necessary business with officers of government, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

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Execution of laws.

Sec. 6.He shall take care that the laws be faithfully executed.

Extra sessions.

Sec. 7.He may convene the Legislature on extraordinary occasions.

Messages.

Sec. 8.He shall give to the Legislature, and at the close of his official term, to the next Legislature, information by message of the condition of the State, and recommend such measures to them as he shall deem expedient.

Convening legislature elsewhere than seat of government.

Sec. 9.He may convene the Legislature at some other place when the seat of government becomes dangerous from disease or a common enemy.

Writs of elections.

Sec. 10.He shall issue writs of election to fill such vacancies as occur in the Senate or House of Representatives.

Reprieves and pardons; suspension of sentence in case of treason.

Sec. 11.He may grant reprieves, commutations and pardons after convictions, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to regulations provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he may suspend the execution of the sentence until the case shall be reported to the Legislature at its next session, when the legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each session information of each case of reprieve, commutation or pardon granted, and the reasons therefor.

Vacancy, absence, etc.; duty of lieutenant governor.

Sec. 12.In case of the impeachment of the Governor, his removal from office, death, inability, resignation, or absence from the State the powers and duties of the office shall devolve upon the Lieutenant Governor, for the residue of the term, or until the disability ceases. When the Governor shall be out of the State in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the state.

President pro tempore of senate.

Sec. 13.During a vacancy in the office of Governor, if the Lieutenant Governor die, resign, or be impeached, displaced, be incapable of performing the duties of his office, or absent from the State, the President pro tempore of the Senate shall act as Governor, until the vacancy be filled, or the disability cease.

President of senate.

Sec. 14.The Lieutenant Governor shall, by virtue of his office, be President of the Senate. In committee of the whole he may debate all questions; and when there is an equal division, he shall give the casting vote.

Ineligibility of certain persons.

Sec. 15.No member of Congress, nor any person holding office under the United States, or this State, shall execute the office of Governor.

Ineligible to other office.

Sec. 16.No person elected Governor or Lieutenant Governor shall be eligible to any office or appointment from the Legislature, or either house thereof, during the time

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for which he was elected. All votes for either of them, for any such office, shall be void.

Compensation.

Sec. 17. The Lieutenant [governor] and President of the Senate pro tempore, when performing the duties of Governor, shall receive the same compensation as the governor.

NOTE: The word governor, in brackets, after "lieutenant," is omitted in the engrossed copy of the Constitution.

Great seal.

Sec. 18. All official acts of the Governor, his approval of the laws excepted, shall be authenticated by the Great Seal of the State, which shall be kept by the Secretary of State.

Commissions.

Sec. 19. All commissions issued to persons holding office under the provisions of this constitution shall be in the name and by the authority of the people of the State of Michigan, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

ARTICLE 6
JUDICIAL DEPARTMENT

Judicial Power.

Sec. 1. The judicial power is vested in one supreme court, in circuit courts, in probate courts, and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the Legislature in cities.

Supreme court; term of justices.

Sec. 2. For the term of six years, and thereafter, until the legislature otherwise provide, the judges of the several circuit courts shall be judges of the supreme court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years the Legislature may provide by law for the organization of a supreme court, with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and three associate justices, to be chosen by the electors of the State. Such supreme court, when so organized, shall not be changed or discontinued by the legislature for eight years thereafter. The judges thereof shall be so classified that but one of them shall go out of office at the same time. The term of office shall be eight years.

HISTORY: Act No. 6 of 1887 provided that there should be five Justices of the Supreme Court and that the term of office of each should be [illegible] years. Act No. 250 of 1903 provides that there shall be eight justices after January 1, 1905, whose term of office shall be eight years.

Same; jurisdiction.

Sec. 3. The supreme court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, habeas corpus, mandamus, quo warranto, procedendo, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

Terms of court.

Sec. 4. Four terms of the supreme court shall be held annually at such times and places as may be designated by law.

Court rules; master in chancery prohibited.

Sec. 5. The supreme court shall, by general rules, establish, modify, and amend the practice in such court and in the circuit courts, and simplify the same. The legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of master in chancery is prohibited.

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Judicial circuits.

Sec. 6.The State shall be divided into judicial circuits, in each of which the electors thereof shall elect one circuit judge who shall hold his office for the term of six years, and until his successor is elected and qualified. The legislature may provide for the election of more than one circuit judge in the judicial circuit in which the city of Detroit is or may be situated, and in the judicial circuit in which the county of Saginaw is or may be situated, and in the judicial circuit in which the county of Kent is or may be situated, and in the judicial circuit in which the county of St. Clair is or may be situated. And the circuit judge or judges of such circuits, in addition to the salary provided by the constitution, shall receive from their respective counties such additional salary as may from time to time be fixed and determined by the board of supervisors of said county. And the board of supervisors of each county in the Upper Peninsula, and in the counties of Bay, Washtenaw, Genesee, Ingham and Jackson and the counties in the judicial circuit in which the county of Isabella is or may be situated in the lower peninsula, is hereby authorized and empowered to give and to pay the circuit judge of the judicial circuit, to which said county is attached, such additional salary or compensation as may from time to time be fixed and determined by such board of supervisors. This section as amended shall take effect from the time of its adoption.

HISTORY: Am. proposed by J. R. 1, 1889, Ratified Spring Election 1889. As at first adopted this section provided for eight circuits and ended with the word "qualified." By amendment proposed by J. R. No. 11, of 1881, and ratified at the spring election of 1881, the special provisions as to the Wayne circuit were added. Pub. Acts 1881, p.433. By amendment proposed by J. R. No. 15, of 1883, and ratified at the election of 1884, the special provisions as to the upper peninsula counties were inserted. Pub. Acts 1885, p. 384. By amendment proposed by J. R. No. 11, of 1887, and ratified at the election of 1888, the special provisions as to the Saginaw circuit were incorporated. Pub. Acts 1889, p. 454. By amendment proposed by J. R. No. 1 of 1889, and ratified at the spring election of 1889, the special provisions as to the Kent circuit were inserted. Pub. Acts 1889, p. 454. Am. J. R. No. 6, 1899; ratified April election 1899; Am. J. R. No. 4, 1903; ratified April election 1903; Am. J. R. No. 2, 1905; ratified April election 1905; Am. J. R. No. 3, 1907; ratified April election 1907.

Alteration of circuits.

Sec. 7.The legislature may alter the limits of circuits or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected by the electors of such circuit, and his term of office shall continue, as provided in this constitution for judges of the circuit court.

Jurisdiction of circuit courts; writs.

Sec. 8.The circuit court shall have original jurisdiction in all matters civil and criminal, not excepted in this constitution, and not prohibited by law; and appellate jurisdiction from all inferior courts and tribunals and a supervisory control of the same. They shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and other writs necessary to carry into effect their orders, judgments and decrees, and give them general control over inferior courts and tribunals within their respective jurisdictions, and in all such other cases and matters as the supreme court shall by rule prescribe.

HISTORY: Am. J. R. No. 12, 1893, Ratified April Election 1893. This amendment consisted only in adding the clause, "and in all such other cases and matters as the supreme court shall by rule prescribe."

Compensation; ineligible for other offices.

Sec. 9.Each of the judges of the circuit courts shall receive a salary, payable quarterly. They shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. All votes for any person elected such judge for any office other than judicial, given either by the legislature or the people shall be void.

Reporter; decisions, circuit judges to fill vacancies.

Sec. 10.The supreme court may appoint a reporter of its decisions. The decisions of the supreme court shall be in writing, and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing under

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his signature. All such opinions shall be filed in the office of the clerk of the supreme court. The judges of the circuit court within their respective jurisdictions, may fill vacancies in the office of county clerk and of prosecuting attorney; but no judge of the supreme court, or circuit court, shall exercise any other power or appointment to public office.

Terms of court; holding court.

Sec. 11.A circuit court shall be held at least twice in each year in every county organized for judicial purposes, and four times in each year in counties containing ten thousand inhabitants. Judges of the circuit court may hold courts for each other, and shall do so when required by law.

Clerks of supreme and circuit courts.

Sec. 12.The clerk of each county organized for judicial purposes shall be the clerk of the circuit court of such county. The supreme court shall have power to appoint a clerk for such supreme court.

HISTORY: Am. J. R. No. 5, 1881, Ratified April Election, 1881.

Courts of probate; jurisdiction.

Sec. 13.In each of the counties organized for judicial purposes, there shall be a court of probate. The judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers and duties of such courts shall be prescribed by law.

Vacancies, appointment.

Sec. 14.When a vacancy occurs in the office of judge of the supreme, circuit or probate court, it shall be filled by appointment of the governor, which shall continue until a successor is elected and qualified. When elected, such successor shall hold his office the residue of the unexpired term.

Courts of record.

Sec. 15.The supreme court, the circuit and probate courts of each county, shall be courts of record, and shall each have a common seal.

Circuit court commissioner.

Sec. 16.The legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers not exceeding those of a judge of the circuit court at chambers.

Justices of the peace; election; term of office.

Sec. 17.There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the township and shall hold their offices for four years, and until their successors are elected and qualified. At the first election in any township they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The Legislature may increase the number of justices in cities.

Same; jurisdiction.

Sec. 18.In civil cases justices of the peace shall have exclusive jurisdiction to the amount of one hundred dollars, and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exceptions and restrictions as may be provided by law. They shall also have such criminal jurisdiction and perform such duties as shall be prescribed by the Legislature.

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Conservators of the peace.

Sec. 19.Judges of the supreme court, circuit judges and justices of the peace shall be conservators of the peace within their respective jurisdiction.

Election of circuit judges.

Sec. 20.The first election of judges of the circuit courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. Whenever an additional circuit is created, provisions shall be made to hold the subsequent election of such additional judge at the regular elections herein provided.

Judges of probate; election.

Sec. 21.The first election of judges of the probate courts shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and fifty-two, and every fourth year thereafter.

Judges; vacancy in office.

Sec. 22.Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, or a justice of the peace from the township in which he was elected, or by a change in the boundaries of such township shall be placed without the same, they shall be deemed to have vacated their respective offices.

Courts of conciliation.

Sec. 23.The legislature may establish courts of conciliation with such powers and duties as shall be prescribed by law.

Appearance; in person, by attorney.

Sec. 24.Any suitor in any court of this state shall have the right to prosecute or defend his suit, either in his own proper person, or by an attorney or agent of his choice.

Libels; justification; right of jury.

Sec. 25.In all prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted. The jury shall have the right to determine the law and the fact.

Searches and seizures.

Sec. 26.The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

Jury trial, waiver in civil cases.

Sec. 27.The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties in such manner as shall be prescribed by law.

Rights of accused.

Sec. 28.In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have the assistance of counsel for his defense.

Acquittal upon the merits; bail.

Sec. 29.No person after acquittal upon the merits shall be tried for the same offence.

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All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Treason.

Sec. 30. Treason against the state shall consist only in levying war against [it], or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

TREASON AGAINST UNITED STATES: See United States Const., Art 3, Sec. 3, Par. 1.

Bail; punishment; detention of witnesses.

Sec. 31. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted, nor shall witnesses be unreasonably detained.

Self-incrimination; due process.

Sec. 32. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.

Imprisonment for debt; militia fines.

Sec. 33. No person shall be imprisoned for debt arising out of, or founded on a contract, express or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers, or in any professional employment. No person shall be imprisoned for a militia fine in time of peace.

Competency of witnesses.

Sec. 34. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Style of process.

Sec. 35. The style of all process shall be "In the name of the people of the State of Michigan."

ARTICLE 7

ELECTIONS

Qualification of electors.

Sec. 1. In all elections, every male inhabitant of this State, being a citizen of the United States, every male inhabitant residing in this State on the twenty-fourth day of June, eighteen hundred and thirty-five, every male inhabitant residing in this State on the first day of January, eighteen hundred and fifty, every male inhabitant of foreign birth who, having resided in the State two years and six months prior to the eighth day of November, eighteen hundred and ninety-four, and having declared his intention to become a citizen of the United States two years and six months prior to said last named day, and every civilized male inhabitant of Indian descent, a native of the United States, and not a member of any tribe, shall be an elector and entitled to vote; but no one shall be an elector or entitled to vote at any election unless he shall be above the age of twenty-one years, and has resided in this State six months, and in the township or ward in which he offers to vote, twenty days next preceding such election: Provided, That in time of war, insurrection or rebellion, no qualified elector in the actual military service of the United States, or of this State, or in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward

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or State in which he resides, and the Legislature shall have the power, and shall provide the manner in which, and the time and place at which, such absent electors may vote, and for the canvass and return of their votes to the township or ward election district in which they respectively reside or otherwise.

HISTORY: Am. J. R. No. 26, of 1865; ratified election of 1866. Am. J. R. No. 42 of 1869; ratified election of 1870. Am. J. R. No. 20 of 1893; ratified November election, 1894.

Votes by ballot.

Sec. 2.All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

Elector privileged from arrest.

Sec. 3.Every elector, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

Military duty; attendance of court.

Sec. 4.No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or attend court as a suitor or witness.

Residence of elector.

Sec. 5.No elector shall be deemed to have gained or lost a residence, by reason of his being employed in the service of the United States, or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison, except that honorably discharged soldiers, sailors and marines who have served in the military or naval forces of the United States, or of this State, and who reside in soldiers' homes established by the state, may acquire a residence where such home is located.

HISTORY: Am. J. R. No. 21, 1893, ratified November election, 1894.

Purity of elections.

Sec. 6.Laws may be passed to preserve the purity of elections and guard against abuses of the elective franchise.

Soldiers, seamen, and marines.

Sec. 7.No soldier, seaman, or marine, in the army or navy of the United States, shall be deemed a resident of this state, in consequence of being stationed in any military or naval place within the same.

Disqualification for dueling.

Sec. 8.Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the constitution and laws of this state, and shall not be permitted to vote at any election.

ARTICLE 8

STATE OFFICERS

Elective state officers; location of offices.

Sec. 1.There shall be elected at each general biennial election a secretary of state, a superintendent of public instruction, a state treasurer, a commissioner of the land office, an auditor general, and an attorney general for the term of two years. They shall keep their offices at the seat of government and shall perform such duties as may be prescribed by law.

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Term of office.

Sec. 2.Their term of office shall commence on the first day of January, one thousand eight hundred and fifty-three, and of every second year thereafter.

Vacancy, how filled.

Sec. 3.Whenever a vacancy shall occur in any of the state offices, the Governor shall fill the same by appointment, by and with the advice and consent of the Senate if in session.

Board of state auditors; state canvassers.

Sec. 4.The secretary of state, state treasurer, and commissioner of the state land office shall constitute a board of state auditors to examine and adjust all claims against the state, not otherwise provided for by general law. They shall constitute a board of state canvassers, to determine the result of all elections for governor, lieutenant governor and state officers, and of such other officers as shall by law be referred to them.

Legislature, tie vote of electorate, choice.

Sec. 5.In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the board of state canvassers, the legislature in joint convention shall choose one of said persons to fill such office. When the determination of the board of state canvassers is contested, the legislature, in joint convention, shall decide which person is elected.

ARTICLE 9

SALARIES

Salaries of state officers.

Sec. 1.The Governor shall receive an annual salary of four thousand dollars; the judges of the circuit court shall each receive an annual salary of two thousand five hundred dollars; the state treasurer shall receive an annual salary of one thousand dollars; the superintendent of public instruction shall receive an annual salary of one thousand dollars; the secretary of state shall receive an annual salary of eight hundred dollars; the commissioner of the land office shall receive an annual salary of eight hundred dollars; the attorney general shall receive an annual salary of eight hundred dollars. They shall receive no fees or perquisites whatever for the performance of any duties connected with their office. It shall not be competent for the Legislature to increase the salaries herein provided.

HISTORY: Amendment proposed by J. R. No. 2 of 1889 and ratified at the spring election of 1889. The governor's salary was originally $3,000 and this amendment raised it to $4,000. The circuit judges salary was originally $1,500 but was raised to $2,500 by amendment proposed by J. R. 25 of 1881 and ratified at the election of 1882. Pub. Acts of 1883, p. 246.

ARTICLE 10

COUNTIES

Counties; corporate character; suits by or against.

Sec. 1.Each organized county shall be a body corporate, with such powers and immunities as shall be established by law. All suits and proceedings by or against a county shall be in the name thereof.

Same; townships, cities.

Sec. 2.No organized county shall ever be reduced by the organization of new counties to less than sixteen townships as surveyed by the United States, unless in pursuance of law, a majority of electors residing in each county to be affected thereby shall so decide. The legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon shall be in favor of a separate organization.

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County officers.

Sec. 3.In each organized county there shall be a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, chosen by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office, or disconnect the same.

Offices at county seat.

Sec. 4.The sheriff, county clerk, county treasurer, judge of probate and register of deeds shall hold their offices at the county seat.

Sheriff, other office; security; responsibility for acts.

Sec. 5.The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts.

Board of supervisors.

Sec. 6.A board of supervisors, consisting of one from each organized township, shall be established in each county, with such powers as shall be prescribed by law.

Same; representation of cities.

Sec. 7.Cities shall have such representation in the board of supervisors of the counties in which they are situated, as the legislature may direct.

Removal of county seat.

Sec. 8.No county seat once established shall be removed until the place to which it is proposed to be removed shall be designated by two-thirds of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

Limitation on borrowing power; taxing power.

Sec. 9.The board of supervisors of any county may borrow or raise by tax one thousand dollars, for constructing or repairing public buildings, highways or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year, unless authorized by a majority of the electors of such county voting thereon.

Board of supervisors; powers; claims; appeals.

Sec. 10.The board of supervisors, or in the counties of Saginaw, Jackson, Washtenaw, Kent, Wayne, Genesee, Bay, Cheboygan and St. Clair the board of county auditors, shall have the exclusive power to fix the compensation for all services rendered for and to adjust all claims against their respective counties, and the sums so fixed and defined shall be subject to no appeal.

HISTORY: Am. J. R. No. 3, 1903; ratified April election, 1903; Am. J. R. No. 3, 1905; ratified April election 1905; Am. J. R. No. 4, 1907, ratified April election, 1907. The amendment of 1903 made provision for a board of county auditors for the counties of Saginaw, Jackson, Washtenaw and Kent, in addition to the county of Wayne. The amendment of 1905 added the county of Genesee. The amendment of 1907 added the counties of Bay, Cheboygan and St. Clair.

Highways; bridges.

Sec. 11.The board of supervisors of each organized county may provide for laying out highways, constructing bridges, and organizing townships, under such restrictions and limitations as shall be prescribed by law.

ARTICLE 11
TOWNSHIPS

Township officers.

Sec. 1.There shall be elected annually, on the first Monday of April, in each organ-

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ized township, one supervisor, one township clerk, who shall be ex officio school inspector, one commissioner of highways, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district, whose powers and duties shall be prescribed by law.

Townships; corporate character; suits by or against.

Sec. 2.Each organized township shall be a body corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township shall be in the name thereof.

ARTICLE 12

IMPEACHMENTS AND REMOVALS FROM OFFICE

Impeachments.

Sec. 1.The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes or misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

Trial of impeachment; conviction and judgment.

Sec. 2.Every impeachment shall be tried by the senate. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside. When an impeachment is directed the senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. Judgment in case of impeachment shall not extend further than removal from office, but the party convicted shall be liable to punishment according to law.

Prosecution of impeachment.

Sec. 3.When an impeachment is directed the house of representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the Legislature, when the Senate shall proceed to try the same.

Impeachment of judicial officer.

Sec. 4.No judicial officer shall exercise his office after an impeachment is directed until he is acquitted.

Vacancy by suspension; provisional appointment.

Sec. 5.The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer until he shall be acquitted or until after the election and qualification of a successor.

Removal of judge.

Sec. 6.For reasonable cause, which shall not be sufficient ground for the impeachment of a judge, the governor shall remove him on a concurrent resolution of two-thirds of the members elected to each house of the legislature; but the cause for which such removal is required shall be stated at length in such resolution.

Removal of county, township, and school district officers.

Sec. 7.The legislature shall provide by law for the removal of any officer elected by a county, township or school district, in such manner and for such cause as to them shall seem just and proper.

Removal of state officers.

Sec. 8.The Governor shall have power and it shall be his duty, except at such time as the Legislature may be in session, to examine into the condition and administration

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of any public office and the acts of any public officer, elective or appointed, to remove from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, either of the following state officers, to wit: The Attorney General, State Treasurer, Commissioner of the Land Office, Secretary of State, Auditor General, Superintendent of Public Instruction or members of the State Board of Education or any other officers of the State except Legislative and judicial, elective or appointed, and to appoint a successor for the remainder of their respective unexpired term of office, and report the causes of such removal to the Legislature at its next session.

HISTORY: Am. J. R. No. 15, 1861, Ratified Election of 1862.

ARTICLE 13

EDUCATION

Supervision by superintendent of public instruction.

Sec. 1.The superintendent of public instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

School fund.

Sec. 2.The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State for educational purposes, and the proceeds of all lands or other property given by individuals or appropriated by the state for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation.

Escheats.

Sec. 3.All lands the titles to which shall fail from a defect of heirs, shall escheat to the state, and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of primary schools.

Primary schools; instructions in English language.

Sec. 4.The legislature shall, within five years from the adoption of this constitution, provide for and establish a system of primary schools, whereby a school shall be kept without charge for tuition, at least three months in each year, in every school district in the state; and all instruction in said school shall be conducted in the English language.

School term.

Sec. 5.A school shall be maintained in each school district at least three months in each year. Any school district neglecting to maintain such school, shall be deprived, for the ensuing year, of its proportion of the income of the primary school fund, and of all funds arising from taxes, for the support of schools.

Regents of university; election.

Sec. 6.There shall be elected in the year eighteen hundred and sixty-three, at the time of the election of a justice of the supreme court, eight regents of the University, two of whom shall hold their office for two years, two for four years, two for six years, and two for eight years. They shall enter upon the duties of their office on the first of January next succeeding their election. At every regular election of a justice of the supreme court thereafter, there shall be elected two regents whose term of office shall

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be eight years. When a vacancy shall occur in the office of regent, it shall be filled by appointment of the Governor. The regents thus elected, shall constitute the boards of regents of the University of Michigan.

HISTORY. Am. J. R. No. 17, 1861. Ratified Election of 1862.

Same; body corporate.

Sec. 7.The regents of the university and their successors in office shall continue to constitute the body corporate, known by the name and title of "The regents of the University of Michigan."

President of university; supervision by regents.

Sec. 8.The regents of the university shall, at their first annual meeting, or as soon thereafter as may be, elect a president of the university, who shall be ex officio a member of their board, with the privilege of speaking but not of voting. He shall preside at the meetings of the regents and be the principal executive officer of the university. The board of regents shall have the general supervision of the university, and the direction and control of all expenditures from the university interest fund.

State board of education.

Sec. 9.There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a state board of education; one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such board, who shall hold his office for six years. The superintendent of public instruction shall be ex officio a member and secretary of such board. The board shall have the general supervision of the state normal school, and their duties shall be prescribed by law.

Institutions for deaf, dumb, blind, or insane.

Sec. 10.Institutions for the benefit of those inhabitants who are deaf, dumb, blind, or insane, shall always be fostered and supported.

Agricultural school; appropriation; transfer to university.

Sec. 11.The legislature shall encourage the promotion of intellectual, scientific and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an agricultural school. The legislature may appropriate the twenty-two sections of salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the University, for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the regents of the University.

Township and city libraries; disposition of fines.

Sec. 12.The legislature shall also provide for the establishment of at least one library in each township and city, and all fines assessed and collected in the several counties and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries, unless otherwise ordered by the township board of any township or the board of education of any city; Provided, that in no case shall such fines be used for other than library or school purposes.

HISTORY. Am. J. R. No. 25, 1879, Ratified April Election 1881.

ARTICLE 14

FINANCE AND TAXATION

Specific taxes; disposition.

Sec. 1.All specific state taxes, except those received from the mining companies of

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the upper peninsula, shall be applied in paying the interest upon the primary school, university and other educational funds, and the interest and principal of the state debt, in the order herein recited, until the extinguishment of the state debt, other than the amounts due to educational funds, when such specific taxes shall be added to, and constitute a part of the primary school interest fund. The legislature shall provide for an annual tax, sufficient with other resources, to pay the estimated expenses of the state government, the interest of the state debt, and such deficiency as may occur in the resources.

Sinking fund.

Sec. 2.The legislature shall provide by law a sinking fund of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-two, with compound interest at the rate of six per cent. per annum, and an annual increase of at least five per cent., to be applied solely to the payment and extinguishment of the principal of the state debt, other than the amounts due to educational funds, and shall be continued until the extinguishment thereof. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law in one thousand eight hundred and forty-eight.

Debts to meet deficits.

Sec. 3.The state may contract debts to meet deficits in revenue. Such debts shall not in the aggregate at any one time exceed fifty thousand dollars. The moneys so raised shall be applied to the purposes for which they were obtained, or to the payment of the debts so contracted.

Debts to repel invasion.

Sec. 4.The state may contract debts to repel invasion, suppress insurrection, or defend the state in time of war. The money arising from the contracting of such debts shall be applied to the purposes for which it was raised, or to repay such debts.

Appropriations.

Sec. 5.No money shall be paid out of the treasury except in pursuance of appropriations made by law.

State credit.

Sec. 6.The credit of the state shall not be granted to, or in aid of, any person, association or corporation.

Issue of scrip, etc.

Sec. 7.No scrip, certificate, or other evidence of state indebtedness shall be issued, except for the redemption of stock previously issued, or for such debts as are expressly authorized in this constitution.

State not to own stock.

Sec. 8.The state shall not subscribe to, or be interested in, the stock of any company, association or corporation.

Works of internal improvements.

Sec. 9.The state shall not be a party to, nor interested in, any work or internal improvement, nor engaged in carrying on any such work, except in the improvement of or aiding in the improvement of the public wagon roads and in the expenditure of grants to the state of land or other property: Provided, however, That the legislature of the state, by appropriate legislation, may authorize the city of Grand Rapids to issue its bonds for the improvement of Grand River.

HISTORY: Am. J. R. No. 9, 1893, Ratified Spring Election 1893; Am. J. R. No. 4, 1905, Ratified April Election 1905.

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Taxation; collection; tax on corporations.

Sec. 10.The state may continue to collect all specific taxes accruing to the treasury under existing laws. The Legislature may provide for the collection of specific taxes from corporations. The Legislature may provide for the assessment of the property of corporations, at its true cash value by a State Board of Assessors and for the levying and collection of taxes thereon. All taxes hereafter levied on the property of such classes of corporations as are paying specific taxes under laws in force on November sixth, A. D. nineteen hundred, shall be applied as provided for specific State taxes in section one of this article.

HISTORY: Am. J. R. No. 1, extra session of 1900, Ratified November election 1900.

Uniform rate of taxation.

Sec. 11.The Legislature shall provide a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law: Provided, That the Legislature shall provide an uniform rule of taxation for such property as shall be assessed by a State Board of Assessors, and the rate of taxation on such property shall be the rate which the State Board of Assessors shall ascertain and determine is the average rate levied upon other property upon which ad valorem taxes are assessed for State, County, Township, school and municipal purposes.

HISTORY: Am. J. R. No. 1, extra session of 1900, Ratified November Election, 1900.

Assessments.

Sec. 12.All assessments hereafter authorized shall be on property at its cash value.

Equalization.

Sec. 13.In the year one thousand nine hundred and one, and every fifth year thereafter, and at such other times as the Legislature may direct, the Legislature shall provide for an equalization of assessments by a State Board, on all taxable property, except that taxed under laws passed pursuant to section ten of this article.

HISTORY: Am. J. R. No. 1, extra session of 1900, Ratified November election, 1900.

Laws imposing taxes.

Sec. 14.Every law which imposes, continues or revives a tax shall distinctly state the tax, and the objects to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE 15

CORPORATIONS

Incorporation.

Sec. 1.Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be amended, altered or repealed. But the Legislature may, by a vote of two-thirds of the members elected to each house, create a single bank with branches.

HISTORY: Am. J. R. No. 17, 1861, Ratified election of 1862.

Banking law; vote of electors.

Sec. 2.No general banking law shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State, at a general election and be approved by a majority of the votes cast thereon at such election.

HISTORY: Am. J. R. No. 17, 1861, Ratified election of 1862.

Liability of bank stockholders.

Sec. 3.The officers and stockholders of every corporation or association for banking purposes, issuing bank notes or paper credits to circulate as money, shall be individually liable for all debts contracted during the term of their being officers or stockhold-

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ers of such corporation or association, equally and ratably to the extent of their respective shares of stock in any such corporation or association.

HISTORY: Am. J. R. No. 11, 1859, Ratified Election of 1860.

Registry of bills or notes; security required.

Sec. 4.For all banks organized under general laws, the Legislature shall provide for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered, in State or United States stocks bearing interest, which shall be deposited with the State Treasurer for the redemption of such bills or notes in specie.

HISTORY: Am. J. R. No. 17, 1861, Ratified Election of 1862. The amendment added the phrase, "for all banks organized under general laws," and omitted the words "by law," after the word, "provide."

Bill-holders entitled to preference.

Sec. 5.In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Suspension of specie payments.

Sec. 6.The legislature shall pass no law authorizing or sanctioning the suspension of specie payments by any person, association, or corporation.

Liability of stockholders.

Sec. 7.The stockholders of all corporations and joint stock associations shall be individually liable for all labor performed for such corporation or association.

Amending acts of incorporation.

Sec. 8.The legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each house; nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations.

Property taken for public use; compensation.

Sec. 9.The property of no person shall be taken by any corporation for public use, without compensation being first made or secured, in such manner as may be prescribed by law.

Corporation; term of; reorganization.

Sec. 10.No corporation except for municipal purposes or for the construction of railroads, plank roads and canals, shall be created for a longer time than thirty years; but the Legislature may provide by general laws applicable to any corporations, for one or more extensions of the term of such corporations while such term is running, not exceeding thirty years for each extension, on the consent of not less than a two-thirds majority of the capital of the corporation; and by like general laws for the corporate reorganization for a further period, not exceeding thirty years, of such corporations whose terms have expired by limitation, on the consent of not less than four-fifths of the capital: *Provided*, That in cases of corporations where there is no capital stock, the legislature may provide the manner in which such corporations may be reorganized.

HISTORY: Am. J. R. No. 3, 1889, Ratified April Election 1889.

Same; definition; suits by or against.

Sec. 11.The term "corporations," as used in the preceding sections of this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations, not possessed by individuals or partnerships. All corporations shall have the right to sue and be subject to be sued, in all courts in like cases as natural persons.

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Same; holding real estate.

Sec. 12.No corporation shall hold any real estate hereafter acquired, for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

Incorporation of cities and villages.

Sec. 13.The legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

City and village officers; election.

Sec. 14.Judicial officers of cities and villages shall be elected and all other officers shall be elected or appointed at such time and in such manner as the legislature may direct.

Eminent domain; compensation.

Sec. 15.Private property shall not be taken for public improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders and actually paid or secured in the manner provided by law.

Notice for change in charter.

Sec. 16.Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law.

ARTICLE 16
EXEMPTIONS

Personal property.

Sec. 1.The personal property of every resident of this State, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars from sale on execution or other final process of any court, issued for the collection of any debt contracted after the adoption of this Constitution.

Homestead.

Sec. 2.Every homestead of not exceeding forty acres of land, and the dwelling house thereon, and the appurtenances to be selected by the owner thereof, and not included in any town plat, city or village; or instead thereof, at the option of the owner, any lot in any city, village or recorded town plat, or such parts of lots as shall be equal thereto, and the dwelling house thereon, and its appurtenances, owned and occupied by any resident of the State, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution, or any other final process from a court, for any debt contracted after the adoption of this Constitution. Such exemption shall not extend to any mortgage thereon, lawfully obtained; but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

Same; death of owner.

Sec. 3.The homestead of a family after the death of the owner thereof, shall be exempt from the payment of his debts contracted after the adoption of this constitution, in all cases during the minority of his children.

Same; rights of widow.

Sec. 4.If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

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Married women.

Sec. 5.The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled, by gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

ARTICLE 17

MILITIA

Militia; members; military duty; exemptions.

Sec. 1.The militia shall be composed of all able bodied male citizens between the ages of eighteen and forty-five years, except such as are exempted by the laws of the United States, or of this State; but all such citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

HISTORY: Am. J. R. No. 42, 1869, Ratified Election of 1870.

Same; organization.

Sec. 2.The legislature shall provide by law for organizing, equipping and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

Same; officers, election, appointment, commission.

Sec. 3.Officers of the militia shall be elected or appointed and be commissioned in such manner as may be provided by law.

ARTICLE 18

MISCELLANEOUS PROVISIONS

Oath of office.

Sec. 1.Members of the legislature, and all officers, executive and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of____ according to the best of my ability." And no other oath, declaration or test shall be required as a qualification for any office or public trust.

Eminent domain; determination of necessity and compensation.

Sec. 2.When private property is taken for the use or benefit of the public, the necessity for using such property, and the just compensation to be made therefor, except when to be made by the state, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law: *Provided*, The foregoing provision shall in no case be construed to apply to the action of commissioners of highways in the official discharge of their duty as highway commissioners.

HISTORY: Am. J. R. No. 14, 1859, Ratified Election of 1860. The amendment consisted in the addition of the proviso at the end of the section. Compare this section with sections 9 and 15 of article XV and section 14 of this article.

Sec. 3.

HISTORY: This section in relation to the teaching of mechanical trades to convicts in the State prison, was stricken out by J. R. No. 3, 1907, ratified April election, 1907.

Navigable streams; bridges; dams.

Sec. 4.No navigable stream in this state shall be either bridged or dammed without authority from the board of supervisors of the proper county, under the provisions of

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law. No such law shall prejudice the right of individuals to the free navigation of such streams, or preclude the state from the further improvement of the navigation of such streams.

Statement of receipts and expenditures; publication.

Sec. 5. An accurate statement of the receipts and expenditures of the public moneys shall be attached to, and published with the laws, at every regular session of the legislature.

Use of English language in laws, proceedings, etc.

Sec. 6. The laws, public records, and the written judicial and legislative proceedings of the state, shall be conducted, promulgated and preserved in the English language.

Right to bear arms.

Sec. 7. Every person has a right to bear arms for the defense of himself and the state.
See U. S. Const. Am. 2.

Military subordinate to civil power.

Sec. 8. The military shall in all cases, and at all times, be in strict subordination to the civil power.

Quartering of troops.

Sec. 9. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.
See U. S. Const. Am. 3.

Right of petition and assembly.

Sec. 10. The people have the right peaceably to assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

Slavery prohibited.

Sec. 11. Neither slavery, nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

Leases of agricultural lands.

Sec. 12. No lease or grant hereafter of agricultural land for a longer period than twelve years, reserving any rent or service of any kind, shall be valid.

Resident aliens may hold property.

Sec. 13. Aliens who are, or who may hereafter become, bona fide residents of this state, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native born citizens.

Private property; private roads.

Sec. 14. The property of no person shall be taken for public use without just compensation therefor. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damages to be sustained by the opening thereof, shall be first determined by a jury of freeholders; and such amount, together with the expenses of proceedings, shall be paid by the person or persons to be benefited.
Compare this section with secs. 9 and 15 of art. xv and sec. 2 of this article.

Revision of laws; compilation.

Sec. 15. No general revision of the laws shall hereafter be made. When a reprint thereof becomes necessary, the legislature in joint convention shall appoint a suitable person to collect together such acts and parts of acts as are in force, and, without alter-

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ation, arrange them under appropriate heads and titles. The laws so arranged shall be submitted to two commissioners appointed by the Governor for examination, and if certified by them to be a correct compilation of all general laws in force, shall be printed in such manner as shall be prescribed by law.

ARTICLE 19
UPPER PENINSULA

Upper peninsula to constitute separate judicial district.

Sec. 1.The Counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton, and Ontonagon, and the islands and territory thereunto attached, the islands of Lake Superior, Huron, and Michigan, and in Green Bay, and the Straits of Mackinac and the River Ste. Marie, shall constitute a separate judicial district, and be entitled to a district judge and district attorney.

Same; district judge.

Sec. 2.The district judge shall be elected by the electors of such district, and shall perform the same duties and possess the same powers as a circuit judge in his circuit, and shall hold his office for the same period.

District attorney.

Sec. 3.The district attorney shall be elected every two years by the electors of the district, shall perform the duties of prosecuting attorney throughout the entire district, and may issue warrants for the arrest of offenders in cases of felony, to be proceeded with as shall be prescribed by law.

The office of district attorney was abolished by Act 191 of 1865, p. 320.

Senators and representatives.

Sec. 4.Such judicial district shall be entitled at all times to at least one senator, and until entitled to more by its population, it shall have three members of the House of Representatives, to be apportioned among the several counties by the legislature.

Compensation of judicial officers; extra compensation for representatives.

Sec. 5.The legislature may provide for the payment of the district judge a salary not exceeding one thousand dollars a year, and of the district attorney not exceeding seven hundred dollars a year; and may allow extra compensation to the members of the legislature from such territory, not exceeding two dollars a day during any session.

The first part of this section is now obsolete. As to extra compensation to upper peninsula members, see sec. 15, art. IV.

Time of election.

Sec. 6.That elections for all district or county officers, State Senator or Representatives, within the boundaries defined in this article, shall take place on the Tuesday succeeding the first Monday of November in the respective years in which they may be required. The county canvass shall be held on the first Monday thereafter, and the district canvass on the third Monday of said November.

HISTORY: Am. J. R. No. 17, 1861, Ratified Election of 1862. As originally adopted this section provided for elections in the upper peninsula on the last Tuesday in September; for a county canvass on the first Tuesday in October and for a district canvass on the last Tuesday of October.

Tax on mining corporations.

Sec. 7.One half of the taxes received into the treasury from mining corporations in the upper peninsula, paying an annual state tax of one per cent, shall be paid to the treasurers of the counties from which it is received; to be applied for township and county purposes, as provided by law. The Legislature shall have power, after the year one thousand eight hundred and fifty-five, to reduce the amount to be refunded.

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State prison; location.

Sec. 8.The legislature may change the location of the state prison from Jackson to the Upper Peninsula.

Mining corporations; charter modified by legislature.

Sec. 9.The charters of the several mining corporations may be modified by the legislature, in regard to the term limited for subscribing to stock, and in relation to the quantity of land which a corporation shall hold; but the capital shall not be increased, nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises.

ARTICLE 19a

RAILROADS

Rates; discrimination.

Sec. 1.The Legislature may, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on different railroads in this State, and shall prohibit running contracts between such railroad companies whereby discrimination is made in favor of either of such companies as against other companies owning connecting or intersecting lines of railroad.

HISTORY: Submitted J. R. No. 1, 1870, Ratified Election of 1870.

Consolidation.

Sec. 2.No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given of at least sixty days to all stockholders, in such manner as shall be provided by law.

HISTORY: Submitted J. R. No. 1, 1870, Ratified Election of 1870.

ARTICLE 20

AMENDMENT AND REVISION OF THE CONSTITUTION

Amendments to constitution; submission.

Sec. 1.Any amendment or amendments to this constitution may be proposed in the Senate or House of Representatives. If the same shall be agreed to by two-thirds of the members elected to each House, such amendment or amendments shall be entered on the journals respectively, with the yeas and nays taken thereon; and the same shall be submitted to the electors at the next spring or autumn election thereafter, as the Legislature shall direct; and if a majority of electors qualified to vote for members of the Legislature voting thereon, shall ratify and approve such amendment or amendments, the same shall become part of the constitution.

HISTORY: Am. J. R. No. 29, 1875, Ratified Election of 1876.

Revision of constitution; submission.

Sec. 2.At the general election to be held in the year one thousand eight hundred and sixty six, and in each sixteenth year thereafter, and also at such other times as the Legislature may by law provide, the question of the general revision of the constitution shall be submitted to the electors qualified to vote for members of the Legislature, and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the Legislature, at the next session, shall provide by law for the election of such delegates to such convention. All the amendments shall take effect at the commencement of the year after their adoption.

HISTORY: Am. J. R. No. 17, 1861, Ratified Election of 1862. The amendment consisted in striking out the word "political" before the word "law" where it last occurs.

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SCHEDULE

That no inconvenience may arise from the changes in the constitution of this State, and in order to carry the same into complete operation, it is hereby declared, that

Laws to remain in force until altered or repealed.

Sec. 1.The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations or are altered or repealed by the legislature.

Continuance of proceedings pending; organization of judicial department.

Sec. 2.All writs, actions, causes of action, prosecutions and rights of individuals and of bodies corporate, and of the State, and all charters of incorporation, shall continue; and all indictments which shall have been found or which may hereafter be found, for any crime or offense committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department under this constitution.

Fines, penalties, etc.

Sec. 3.That all fines, penalties, forfeitures and escheats accruing to the State of Michigan under the present constitution and laws, shall accrue to the use of the state under this constitution.

Recognizances, bonds and obligations.

Sec. 4.That all recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Michigan, to any State, county or township, or any public officer, or public body, or which may be entered into or executed, under existing laws, "to the people of the State of Michigan," to any such officer or public body, before the complete organization of the departments of government under this constitution, shall remain binding and valid; and rights and liabilities upon the same shall continue and may be prosecuted as provided by law. And all crimes and misdemeanors and penal actions shall be tried, punished and prosecuted, as though no change had taken place, until otherwise provided by law.

Governor; lieutenant governor.

Sec. 5.A Governor and Lieutenant Governor shall be chosen under the existing constitution and laws to serve after the expiration of the term of the present incumbent.

Officers to hold over.

Sec. 6.All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superseded under the laws now in force, or under this constitution.

Same; senators and representatives.

Sec. 7.The members of the Senate and House of Representatives of the Legislature of one thousand eight hundred and fifty-one shall continue in office under the provisions of law, until superseded by their successors elected, and qualified under this constitution.

Same; county and township officers.

Sec. 8.All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws now in force as to the election, qualification

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and duties of township officers, shall continue in force until the Legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices, and prescribe the duties of such officers, respectively.

Terms of judicial and court offices.

Sec. 9.On the first day of January in the year one thousand eight hundred and fifty-two, the terms of office of the judges of the supreme court, under existing laws, and of the Judges of the county courts, and of the clerks of the supreme court, shall expire on the said day.

Jurisdiction of pending suits.

Sec. 10.On the first day of January in the year one thousand eight hundred and fifty-two, the jurisdiction of all suits and proceedings then pending in the present supreme courts shall become vested in the supreme court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity, then pending in the circuit courts and county courts for the several counties, shall become vested in the circuit courts of the said counties: and District Court for the Upper Peninsula.

Jurisdiction of probate courts, justice of the peace and police court.

Sec. 11.The probate courts, the courts of justices of the peace, and the police court authorized by an act entitled "An act to establish a Police court in the city of Detroit, approved April second, one thousand eight hundred and fifty," shall continue to exercise the jurisdiction and powers now conferred upon them respectively, until otherwise provided by law.

State printer; term.

Sec. 12.The office of State Printer shall be vested in the present incumbent until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law relating to his duties, rights, privileges and compensation, shall remain unimpaired and inviolate until the expiration of his said term of office.

Legislature to adapt laws to this constitution.

Sec. 13.It shall be the duty of the Legislature, at their first session, to adapt the present laws to the provisions of this constitution, as far as may be.

Attorney general; report to legislature.

Sec. 14.The Attorney General of the state is required to prepare and report to the Legislature at the commencement of the next session such changes and modifications in existing laws as may be deemed necessary to adapt the same to this constitution, and as may be best calculated to carry into effect its provisions, and he shall receive no additional compensation therefor.

Representation of certain territory.

Sec. 15.Any territory attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation.

Submission of constitution.

Sec. 16.This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the first Tuesday of November, one thousand eight hundred and fifty; and there shall also be submitted for adoption or rejection at the same time the separate resolution in relation to the elective franchise; and it shall be the duty of the Secretary of State, and all other officers required to give or publish any notice in regard to the said general election, to give notice, as provided by

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law in case of an election of Governor, that this constitution has been duly submitted to the electors at said election. Every newspaper within this state publishing in the month of September next, this constitution as submitted shall receive, as compensation therefor, the sum of twenty-five dollars to be paid as the Legislature shall direct.

Qualification of electors.

Sec. 17.Any person entitled to vote for members of the legislature, by the Constitution and laws now in force, shall at the said election be entitled to vote for the adoption or rejection of this constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the legislature.

Ballots.

Sec. 18.At the said general election a ballot box shall be kept by the several boards of Inspectors thereof, for receiving the votes cast for or against the adoption of this constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "Adoption of the Constitution—Yes," or "Adoption of the Constitution—No."

Canvass; proclamation by governor; election of officers.

Sec. 19.The canvass of the votes cast for the adoption or rejection of this Constitution, and the provision in relation to the elective franchise separately submitted, and the returns thereof shall be made by the proper canvassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at an election for governor, as near as may be, and the return thereof shall be directed to the Secretary of State. On the sixteenth day of December next or within five days thereafter, the Auditor General, State Treasurer, and Secretary of State, shall meet at the capitol, and proceed in presence of the Governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the Governor of the result thereof. If it shall appear that a majority of the votes case upon the question, have thereon "Adoption of the Constitution—Yes," this constitution shall be the supreme law of the state from and after the first day of January, one thousand eight hundred and fifty-one except as is herein otherwise provided; but if a majority of the votes cast upon the question, have thereon "Adoption of the Constitution—No," the same shall be null and void. And in the case of the adoption of this constitution, said officers shall immediately, or as soon thereafter as practicable, proceed to open the statements of votes returned from the several counties for Judges of the Supreme Court and State officers under the act entitled "An act to amend the Revised Statutes and to provide for the election of certain officers by the people in pursuance to an amendment of the constitution" approved February sixteenth, one thousand eight hundred and fifty, and shall ascertain, determine and certify the results of the election for said officers under said acts, in the same manner, as near as may be, as is now provided by law in regard to the election of Representatives in Congress. And the several judges and officers so ascertained to have been elected may be qualified and enter upon the duties of their respective offices, on the first Monday of January next or as soon thereafter as practicable.

Salaries; shall not be increased or diminished during term.

Sec. 20.The salaries or compensation of all persons holding office under the present constitution shall continue to be the same as now provided by law, until superseded by their successors elected or appointed under this constitution; and it shall not be lawful hereafter for the Legislature to increase or diminish the compensation of any officer during the term for which he is elected or appointed.

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Expenditures of convention; publication of constitution.

Sec. 21. The legislature, at their first session, shall provide for the payment of all expenditures of the convention to revise the constitution and of the publication of the same as is provided in this article.

Representative districts.

Sec. 22. Every county except Mackinaw and Chippewa entitled to a representative in the legislature, at the time of the adoption of this constitution, shall continue to be so entitled under this constitution, and the county of Saginaw, with the territory that may be attached, shall be entitled to one Representative; the county of Tuscola, and the territory that may be attached, one Representative; the County of Sanilac, and the territory that may be attached, one Representative; the counties of Midland and Aronac, with the territory that may be attached, one Representative; the County of Montcalm, with the territory that may be attached thereto, one Representative; and the counties of Newaygo and Oceana, with the territory that may be attached thereto, one representative; each county having a ratio of representation, and a fraction over, equal to a moiety of said ratio, shall be entitled to two representatives; and so on above that number, giving one additional member for each additional ratio.

Pending chancery cases; legislature to provide for transfer.

Sec. 23. The cases pending and undisposed of in the late Court of chancery, at the time of the adoption of this constitution, shall continue to be heard and determined by the judges of the Supreme Court. But the legislature shall at its session in one thousand eight hundred and fifty-one provide by law for the transfer of said causes that may remain undisposed of on the first day of January, one thousand eight hundred and fifty-two, to the Supreme or Circuit Court established by this Constitution, or require that the same may be heard and determined by the Circuit judges.

Term of governor and lieutenant governor.

Sec. 24. The term of office of the Governor and Lieutenant Governor shall commence on the first day of January next after their election.

Upper peninsula, election of regent.

Sec. 25. The territory described in the article entitled "Upper Peninsula" shall be attached to and constitute a part of the third Circuit for the election of a Regent of the University.

Office of district judge and attorney may be abolished.

Sec. 26. The legislature shall have authority after the expiration of the term of office of the District Judge first elected for the "Upper Peninsula" to abolish said office of District Judge and district attorney or either of them.

Apportionment of senators and representatives.

Sec. 27. The legislature shall at its session of one thousand eight hundred and fifty-one, apportion the representatives among the several counties and district, and divide the state into Senate districts pursuant to the provisions of this constitution.

Terms of state and county officers.

Sec. 28. The terms of office of all State and county officers, of the Circuit Judges, members of the board of education, and members of the Legislature shall begin on the first day of January next succeeding their election.

Judicial circuits.

Sec. 29. The State exclusive of the Upper Peninsula, shall be divided into eight judicial Circuits, and the counties of Monroe, Lenawee and Hillsdale shall constitute the

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first circuit; the counties of Branch, St. Joseph, Cass and Berrien shall constitute the second circuit; the county of Wayne shall constitute the third circuit; the counties of Washtenaw, Jackson and Ingham shall constitute the fourth circuit; the Counties of Calhoun, Kalamazoo, Allegan, Eaton and Van Buren shall constitute the fifth circuit; the counties of St. Clair, Macomb, Oakland and Sanilac shall constitute the sixth circuit; the Counties of Lapeer, Genesee, Saginaw, Shiawassee, Livingston, Tuscola, and Midland shall constitute the seventh Circuit; and the Counties of Barry, Kent, Ottawa, Ionia, Clinton and Montcalm shall constitute the eighth Circuit.

Done in Convention, at the Capitol of the State this fifteenth day of August, in the year of our Lord one thousand eight hundred and fifty and of the Independence of the United States the seventy-fifth.

D. Goodwin
President.

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CONSTITUTION OF MICHIGAN
OF
1908.

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CONSTITUTION OF THE STATE OF MICHIGAN OF 1908.

[Effective January 1, 1909.]

PREAMBLE

Preamble.

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

See note to Preamble, Const. 1850.

ARTICLE I.

BOUNDARIES AND SEAT OF GOVERNMENT.

Boundaries.

Sec. 1.The State of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary line of the state of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of Maumee Bay shall intersect the same—said point being the northwest point of the state of Ohio, as established by act of congress, entitled "An act to establish the northern boundary line of the state of Ohio, and to provide for the admission of the state of Michigan into the Union upon the conditions therein expressed," approved June fifteenth, 1836; thence with the said boundary line of the state of Ohio, until it intersects the boundary line between the United States and Canada in Lake Erie; thence with the said boundary line between the United States and Canada through the Detroit River, Lake Huron and Lake Superior to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal River; thence through the middle of the main channel of the westerly branch of the Montreal River to Island Lake, the head waters thereof; thence in a direct line to the center of the channel between Middle and South Islands in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore and down the River Brule to the main channel of the Menominee River; thence down the center of the main channel of the same to the center of the most usual ship channel of the Green Bay of Lake Michigan; thence through the center of the most usual ship channel of the said bay to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the state of Indiana, as that line was established by the act of Congress of the nineteenth of April, 1816; thence due east with the north boundary line of the said state of Indiana to the northeast corner thereof; and thence south with the eastern boundary line of Indiana to the place of beginning.

HISTORY: See Const. 1850, I.

NOTE: In the original copy of the constitution of 1908, the word section is written out in full. Throughout the compilation, it has been the policy to preface all sections in this manner: Sec. 1., Sec. 2., et cetera.

Seat of government.

Sec. 2.The seat of government shall be at Lansing, where it is now established.

HISTORY: See Const. 1850, II.

ARTICLE II.

DECLARATION OF RIGHTS.

Political power.

Sec. 1.All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

HISTORY: New Section.

Right of assembly and petition.

Sec. 2.The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the legislature for redress of grievances.

HISTORY: See Const. 1850, XVIII, 10.

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Freedom of worship; disabilities.

Sec. 3.Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

HISTORY: See Const. 1850, IV, 39, 40, and 41.

Liberty of speech and of press.

Sec. 4.Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.

HISTORY: See Const. 1850, IV, 42.

Right to bear arms.

Sec. 5.Every person has a right to bear arms for the defense of himself and the state.

HISTORY: See Const. 1850, XVIII, 7.

Civil power supreme.

Sec. 6.The military shall in all cases and at all times be in strict subordination to the civil power.

HISTORY: See Const. 1850, XVIII, 8.

Quartering of soldiers.

Sec. 7.No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

HISTORY: See Const. 1850, XVIII, 9.

Slavery prohibited.

Sec. 8.Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

HISTORY: See Const. 1850, XVIII, 11.

Attainder; ex post facto laws; impairment of contracts.

Sec. 9.No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

HISTORY: See Const. 1850, IV, 43.

Searches and seizures.

Sec. 10.The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation: Provided, however, That the provisions of this section shall not be construed to bar from evidence in any court of criminal jurisdiction, or in any criminal proceeding held before any magistrate or justice of the peace, any narcotic drug or drugs, any firearm, rifle, pistol, revolver, automatic pistol, machine gun, bomb, bomb shell, explosive, blackjack, slungshot, billy, metallic knuckles, gas-ejecting device, or any other dangerous weapon or thing, seized by any peace officer outside the curtilage of any dwelling house in this state.

HISTORY: Am. proposed J. R. 1, 1935, p. 468; ratified November election, 1936;—Am. proposed J. R. 1, 1952, p. 479, ratified November election 1952. See Const. 1850, VI, 28.

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Habeas corpus.

Sec. 11.The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

HISTORY: See Const. 1850, IV, 44.

Appearance in person or by counsel.

Sec. 12.Any suitor in any court of this state shall have the right to prosecute or defend his suit, either in his own proper person or by an attorney or agent of his choice.

HISTORY: See Const. 1850, VI, 24.

Jury trial.

Sec. 13.The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties in such manner as shall be prescribed by law.

HISTORY: See Const. 1850, VI, 27.

Former jeopardy; bailable offenses.

Sec. 14.No person, after acquittal upon the merits, shall be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

HISTORY: See Const. 1850, VI, 29.

Bail; fines; punishment; detention of witnesses.

Sec. 15.Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

HISTORY: See Const. 1850, VI, 31.

Self-incrimination; due process of law.

Sec. 16.No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.

HISTORY: See Const. 1850, VI, 32.

Competency of witnesses.

Sec. 17.No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

HISTORY: See Const. 1850, VI, 34.

Libels; truth as defense.

Sec. 18.In all prosecutions for libels the truth may be given in evidence to the jury; and, if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

HISTORY: See Const. 1850, VI, 25, which section provides that "the jury shall have the right to determine the law and the fact," which is omitted in the above section.

Rights of accused.

Sec. 19.In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; and in courts of record, when the trial court shall so order, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

HISTORY: See Const. 1850, VI, 28.

Imprisonment for debt or military fine.

Sec. 20.No person shall be imprisoned for debt arising out of, or founded on a contract, express or implied, except in cases of fraud or breach of trust, or of moneys col-

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lected by public officers or in any professional employment. No person shall be imprisoned for military fine in time of peace.

HISTORY: See Const. 1850, VI, 33.

Treason; definition, evidence.

Sec. 21.Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of 2 witnesses to the same overt act, or on confession in open court.

HISTORY: See Const. 1850, VI, 30.

Subversion; definition; rights not valid as defense.

Sec. 22.Subversion shall consist of any act, or advocacy of any act, intended to overthrow the form of government of the United States or the form of government of this state, as established by this constitution and as guaranteed by section 4 of article 4 of the constitution of the United States of America, by force or violence or by any unlawful means.

Subversion is declared to be a crime against the state, punishable by any penalty provided by law.

Subversion shall constitute an abuse of the rights secured by section 4 of this article, and the rights secured thereby shall not be valid as a defense in any trial for subversion.

HISTORY: Added section. Am. proposed J. R. 2, 1950, Ex. Ses., p. 133, ratified November, 1950 election.

ARTICLE III.

ELECTIVE FRANCHISE.

Qualification; absentees; sex.

Sec. 1.In all elections every inhabitant of this state being a citizen of the United States; and every inhabitant of Indian descent, a native of the United States, shall be an elector and entitled to vote; but no one shall be an elector and entitled to vote at any election, unless he or she shall be above the age of 21 years and has resided in this state 6 months, and in the city or township in which he or she offers to vote 30 days next preceding such election: Provided, That a registered qualified elector who shall move into another city or township in this state within said 30 day period shall be entitled to vote in the city or township in which registered and from which he has last removed on filing a sworn affidavit to that effect with the election board of the city or township from which he has last removed: Provided further, That no qualified elector in the actual military service of the United States or of this state or in the army or navy thereof, or any student while in attendance at any institution of learning, or any person engaged in teaching in the public schools of this state, or any regularly enrolled member of any citizens' military or naval training camp, held under the authority of the government of the United States or the state of Michigan, or any member of the legislature while in attendance at any session of the legislature, or said member's immediate family during such time, or commercial traveler, or any qualified elector employed upon or in the operation of railroad trains in this state, or any sailor engaged and employed on the great lakes or in coastwise trade, shall be deprived of a vote by reason of absence from the township, ward or state in which he or she resides; and the legislature shall provide by law the manner in which and the time and place at which such absent electors may vote and for the canvass and return of their votes: Provided further, That the legislature shall have power to pass laws covering qualified electors who may be necessarily absent from other causes than above specified: And provided further, That there shall be no denial of the elective franchise at any election on account of sex: And provided further, That the legislature may provide by law that the

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electors of a township may cast their ballots at a township polling place located within the limits of a city which has been incorporated from territory formerly a part of the township.

HISTORY: Am. proposed C. R. 9, 1913, p. 791, ratified November, 1914, election;—Am. proposed J. R. 1 1917, p. 927, ratified April, 1917, election;—Am. proposed J. R. 8, 1917, p. 935, ratified November, 1918, election;—Am. proposed J. R. 4, 1919, p. 765, ratified November election, 1920;—Am. proposed J. R. 3, 1931, p. 810, ratified November, 1932, election;—Am. proposed J. R. 1, 1949, p. 685, ratified November, 1950 election;—Am. proposed J. R. 1, 1953, p. 437, ratified November, 1954 election. See Const. 1850, VII, 1.

Same; residence.

Sec. 2.No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States or of this state, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas, nor while a student at any institution of learning, nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison; except that honorably discharged soldiers, seamen and marines who have served in the military or naval forces of the United States or of this state and who reside in soldiers' homes established by this state may acquire a residence where such home is located.

HISTORY: See Const. 1850, VII, 5.

Soldiers, seamen and marines not residents.

Sec. 3.No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed in any military or naval place within the state.

HISTORY: See Const. 1850, VII, 7.

Elections as to direct expenditures or bond issues.

Sec. 4.Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money or the issue of bonds, only such persons having the qualifications of electors who have property assessed for taxes in any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon.

HISTORY: New section. Am. proposed J. R. 4, 1931, p. 813, ratified November, 1932, election.

Elector; privilege from arrest.

Sec. 5.Every elector in all cases, except for treason, felony or breach of the peace, shall be privileged from arrest during his attendance at elections and in going to and returning from the same.

HISTORY: See Const. 1850, VII, 3.

Same; military or judicial duty.

Sec. 6.No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or to attend court as a suitor or witness.

HISTORY: See Const. 1850, VII, 4.

Votes to be by ballot.

Sec. 7.All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

HISTORY: See Const. 1850, VII, 2.

Purity of elections; recall.

Sec. 8.Laws shall be passed to preserve the purity of elections and guard against abuses of the elective franchise, and to provide for the recall of all elective officers, except judges of courts of record and courts of like jurisdiction upon petition of 25 per centum of the number of electors who voted at the preceding election for the office of governor in their respective electoral districts.

HISTORY: Am. proposed C. R. No. 6, 1913, p. 788; ratified April, 1913, election. See Const. 1850, VII, 6.

Board of state canvassers.

Sec. 9.A board of state canvassers consisting of 4 members shall be established by

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law. No candidate for an office to be canvassed by the board shall be eligible to serve as a member of said board. A majority of the board shall not be composed of adherents of the same political party.

HISTORY: Added section. Am. proposed J. R. 4, 1955, p. 750, ratified April, 1955 election.

ARTICLE IV.

DIVISION OF THE POWERS OF GOVERNMENT.

Departments of government.

Sec. 1. The powers of government are divided into 3 departments: The legislative, executive and judicial.

HISTORY: See Const. 1850, VII, 1.

Limitations of power of officers.

Sec. 2. No person belonging to 1 department shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution.

HISTORY: See Const. 1850, III, 2.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

Legislative power; initiative; referendum.

Sec. 1. The legislative power of the state of Michigan is vested in a senate and house of representatives; but the people reserve to themselves the power to propose legislative measures, resolutions and laws; to enact or reject the same at the polls independently of the legislature; and to approve or reject at the polls any act passed by the legislature, except acts making appropriations for state institutions and to meet deficiences in state funds. The first power reserved by the people is the intiative. Qualified and registered electors of the state equal in number to at least 8 per cent of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, shall be required to propose any measure by petition: Provided, That no law shall be enacted by the initiative that could not under this constitution be enacted by the legislature. Initiative petitions shall set forth in full the proposed measure, and shall be filed with the secretary of state or such other person or persons as may hereafter be authorized by law to receive same not less than 10 days before the commencement of any session of the legislature. Every petition shall be certified to as herein provided as having been signed by the required number of qualified and registered electors of the state. Upon receipt of any initiative petition, the secretary of state or such other person or persons hereafter authorized by law shall canvass the same to ascertain if such petition has been signed by the requisite number of qualified and registered electors, and may, in determining the validity thereof, cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated, for properly determining the authenticity of such signatures. If the same has been so signed, the secretary of state or other person or persons hereafter authorized by law to receive and canvass same, determines that the petition is legal and in proper form and has been signed by the required number of qualified and registered electors, such petition shall be transmitted to the legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected by the legislature without change or amendment within 40 days from the time such petition is received by the legislature.

If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the legislature within said 40 days, the secre-

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tary of state or such other person or persons hereafter authorized by law shall submit such proposed law to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by the secretary of state or such other person or persons hereafter authorized by law to the electors for approval or rejection at the next ensuing general election. All said initiative petitions last above described shall have printed thereon in 12 point black face type the following: "Initiative measure to be presented to the legislature."

The legislature may prescribe penalties for causing or aiding and abetting in causing any fictitious or forged name to be affixed to any initiative or referendum petition, or for knowingly causing any initiative or referendum petition bearing fictitious or forged names to be circulated.

The second power reserved to the people is the referendum. No act passed by the legislature shall go into effect until 90 days after the final adjournment of the session of the legislature which passed such act, except such acts making appropriations and such acts immediately necessary for the preservation of the public peace, health or safety, as have been given immediate effect by action of the legislature. Upon presentation to the secretary of state or such other person or persons hereafter authorized by law, within 90 days after the final adjournment of the legislature, of a petition certified to as herein provided, as having been signed by qualified and registered electors equal in number to 5 per cent of the total vote cast for all candidates for governor at the last election at which a governor was elected, asking that any act, section or part of any act of the legislature, be submitted to the electors for approval or rejection, the secretary of state or other person or persons hereafter authorized by law, shall canvass said petition to ascertain if the same is signed by the requisite number of qualified and registered electors. The secretary of state or such other person or persons hereafter authorized by law may, in determining the validity thereof, cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated, for properly determining the authenticity of such signatures. If the secretary of state or such other person or persons hereafter authorized by law to receive and canvass the same determines that the petition is legal and in proper form and has been signed by the required number of qualified and registered electors, he shall then submit to the electors for approval or rejection such act or section or part of any act at the next succeeding general election; and no such act shall go into effect until and unless approved by a majority of the qualified and registered electors voting thereon. An official declaration of the sufficiency or insufficiency of the petition shall be made by the secretary of state or such other person or persons as shall hereafter be authorized at least 2 months prior to such election.

Any act submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote by the secretary of state. No act initiated or adopted by the people, shall be subject to the veto power of the governor, and no act adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in said initiative measure, but the legislature may propose such amendments, alterations or repeals to the people. Acts adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof: Provided, however, If 2 or more measures approved by the electors at the same election conflict, the measure receiving the highest affirmative vote shall prevail. The text of all measures to be submitted shall be published as constitutional amendments are required by law to be published.

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Any initiative or referendum petition may be presented in sections, each section containing a full and correct copy of the title and text of the proposed measure. Each signer thereto shall add to his signature, his place of residence, street names and also residence numbers in cities and villages having street numbers, and date of signing the same. Any qualified and registered elector of the state shall be competent to solicit such signatures within the county in which he is an elector. Each section of the petition shall bear the name of the county or city in which it is circulated, and only qualified and registered electors of such county or city shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, who shall be required to identify himself by affixing his address below his signature, stating that he is a qualified and registered elector and that all the signatures to the attached section were made in his presence, that each signature to the section is the genuine signature of the person signing the same, and no other affidavit thereto shall be required.

Each section of the petition shall be filed with the clerk of the county in which it was circulated, but all said sections circulated in any county shall be filed at the same time. Within 20 days after the filing of such petition in his office, the said clerk shall forward said petition to the secretary of state or such other person or persons as shall hereafter be authorized by law.

HISTORY: Am. proposed C. R. No. 4, 1913, p. 782; ratified April, 1913, election;—Am. J. R. 2, proposed 1941, p. 788, ratified April, 1941, election. See Const. 1850, IV, 1.

Senators; number, term; districts.

Sec. 2. The senate shall consist of 34 members. Senators shall be elected for 2 years and by single districts. Such districts shall be numbered from 1 to 34, inclusive, and shall consist of the territory within the boundary lines of the counties existing at the time of the adoption of this amendment, as follows: First through fifth, eighteenth, twenty-first, Wayne county; nineteenth, Lenawee and Monroe counties; tenth, Jackson and Hillsdale counties; ninth, Calhoun and Branch counties; sixth, Kalamazoo and St. Joseph counties; seventh, Cass and Berrien counties; eighth, Van Buren, Allegan and Barry counties; fourteenth, Ingham and Livingston counties; twelfth, Oakland county; eleventh, Macomb county; twentieth, Tuscola, Sanilac and Huron counties; thirteenth, Genesee county; fifteenth, Clinton, Shiawassee and Eaton counties; sixteenth and seventeenth, Kent county; twenty-third, Muskegon and Ottawa counties; twenty-fifth, Mecosta, Montcalm, Gratiot and Ionia counties; twenty-second, Saginaw county; twenty-fourth, Bay, Midland and Isabella counties; twenty-sixth, Newaygo, Oceana, Mason, Lake and Manistee counties; twenty-eighth, Osceola, Clare, Gladwin, Arenac, Iosco, Ogemaw, Roscommon, Crawford, Oscoda and Alcona counties; twenty-seventh, Missaukee, Wexford, Benzie, Grand Traverse, Kalkaska, Leelanau and Antrim counties; twenty-ninth, Charlevoix, Emmet, Cheboygan, Otsego, Montmorency, Alpena and Presque Isle counties; thirtieth, Chippewa, Mackinac, Luce, Schoolcraft, Alger, Menominee and Delta counties; thirty-first, Marquette, Dickinson, Iron and Gogebic counties; thirty-second, Baraga, Keweenaw, Houghton and Ontonagon counties; thirty-third, Washtenaw county; thirty-fourth, Lapeer and Saint Clair counties. Each of the 34 districts shall elect 1 senator. Counties entitled to 2 or more senators shall be divided into senatorial districts as herein provided equal to the number of senators to be elected; said districts shall contain as nearly as may be an equal number of inhabitants and shall consist of convenient and contiguous territory; and said districts shall be arranged during the year 1953, by the board of supervisors in such counties assembled at such time and place as prescribed by law.

HISTORY: Am. proposed by initiative petition, ratified November, 1952 election. See Const. 1850 IV, 2.

Representatives; number, term; districts.

Sec. 3. The house of representatives shall consist of not more than 110 members.

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Representatives shall be chosen for 2 years and by single districts except as otherwise provided herein, which shall contain as nearly as may be an equal number of inhabitants and shall consist of convenient and contiguous territory. The ratio of representation for representative districts shall be the quotient obtained by dividing the total population of the state as determined by the latest or each succeeding official federal decennial census by 100. Each county, or group of counties forming a representative district, shall be entitled to a separate representative when it has attained a population equal to 50 per cent of the ratio of representation, and in addition thereto, shall be entitled to 1 additional representative for each additional full ratio of representation. In every county entitled to more than 1 representative, the board of supervisors shall assemble at such time and place as shall be prescribed by law, divide the same into representative districts, which shall contain as nearly as may be an equal number of inhabitants and shall consist of convenient and contiguous territory, equal to the number of representatives to which such county is entitled by law, and shall cause to be filed in the offices of the secretary of state and clerk of such county a description of such representative districts, specifying the number of each district and the population thereof according to the latest or each succeeding official federal decennial census: Provided, That no township or city shall be divided in the formation of a representative district, except that when a city is composed of territory in more than 1 county, it may be divided at the county line or lines: Provided further, That in the case of cities hereafter organized or created or territory annexed to an existing city, the territory thereof shall remain in its present representative district until the next apportionment: And provided further, That when any township or city contains a population which entitles it to more than 1 representative, then such township or city shall elect by general ticket the number of representatives to which it is entitled; except that when such township or city shall be entitled to more than 5 representatives, then such township or city shall be divided into representative districts containing as near as may be an equal number of inhabitants and consisting of convenient and contiguous territory, but with not less than 2 nor more than 3 representatives in any 1 district: Provided, That the average number of inhabitants per representative in such districts shall be as nearly equal as possible.

HISTORY: Am. proposed J. R. No. 2, 1927, p. 970; ratified November, 1928, election; - Am. proposed by initiative petition, ratified November, 1952 election. See Const. 1850, IV, 3.

Legislators; apportionment.

Sec. 4. Within the first 180 days after the convening of the first regular session, or after the convening of any special session called for that purpose, following January 1, 1953, and each tenth year thereafter, the legislature shall apportion anew the representatives among the counties and districts in accordance with section 3 of this article, using as the basis for such apportionment the last United States decennial census of this state: Provided, however, That should the legislature within the first 180 days after the convening of the first regular session, or after the convening of any special session called for that purpose, following January 1, 1953, and each tenth year thereafter, fail to apportion anew the representatives in accordance with the mandate of this article, the board of state canvassers, within 90 days after the expiration of said 180 days, shall apportion anew such districts in accordance with the provisions of this article and such apportionment shall be effective for the next succeeding Fall elections.

HISTORY: Am. proposed by initiative petition, ratified November, 1952 election. See Const. 1850, IV, 4.

Same; qualifications, effect of removal from district.

Sec. 5. Each senator and representative shall be a citizen of the United States, at least 21 years of age, and a qualified elector of the district he represents, and his removal from the district shall be deemed a vacation of the office. No person who has been

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convicted of subversion or of a felony involving a breach of the public trust shall be eligible for either house of the legislature.

HISTORY: Am. proposed J. R. 1, 1956, p. 731, ratified November, 1956 election. See Const. 1850, IV, 5.

Same; eligibility of certain persons to office.

Sec. 6.No person holding any office under the United States or this state or any county office, except notaries public, officers of the militia and officers elected by townships, shall be eligible to or have a seat in either house of the legislature; and all votes given for any such person shall be void.

HISTORY: See Const. 1850, IV, 6.

Same; eligibility to other office; interest in contracts.

Sec. 7.No person elected a member of the legislature shall receive any civil appointment within this state or to the senate of the United States from the governor, except notaries public, or from the governor and senate, from the legislature, or any other state authority, during the term for which he is elected. All such appointments and all votes given for any person so elected for any such office or appointment shall be void. No member of the legislature shall be interested directly or indirectly in any contract with the state or any county thereof, authorized by any law passed during the time for which he is elected, nor for 1 year thereafter.

HISTORY: See Const. 1850, IV, 18.

Same; privileges.

Sec. 8.Senators and representatives shall in all cases, except for treason, felony or breach of the peace, be privileged from arrest during sessions of the legislature and for 15 days next before the commencement and after the termination thereof. They shall not be subject to any civil process during the same period. They shall not be questioned in any other place for any speech in either house.

HISTORY: See Const. 1850, IV, 7.

Same; compensation, mileage; right to publications.

Sec. 9.The compensation and expenses of the members of the legislature shall be determined by law: Provided, That no change in compensation or expenses shall be effective during the term of office for which the legislature making the change was elected. Each member shall be entitled to 1 copy of the laws, journals and documents of the legislature of which he is a member, but shall not receive, at the expense of the State, books, newspapers or perquisites of the office not expressly authorized by this constitution.

HISTORY: Am. proposed J. R. No. 3, 1927, p. 971, ratified November, 1928, election;—Am. proposed J. R. 2, 1948, 1st Ex. Ses., p. 128, ratified November, 1948 election. See Const. 1850, IV, 15.

Compensation of president and speaker.

Sec. 10.The president of the senate and speaker of the house of representatives shall be entitled to the same compensation and mileage as members of the legislature and no more.

HISTORY: See Const. 1850, IV, 17.

Contested elections.

Sec. 11.In case of a contested election, compensation and mileage shall be paid only to the person declared to be entitled to a seat by the house in which the contest takes place.

HISTORY: See Const. 1850, IV, 29.

Election of legislators; time.

Sec. 12.The election of senators and representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of Novem-

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ber, 1910 and on the Tuesday succeeding the first Monday of November of every second year thereafter.

HISTORY: See Const. 1850, IV, 34.

Meeting of Legislature; adjournment.

Sec. 13.The legislature shall meet at the seat of government on the second Wednesday in January of each year and at no other place or time unless as provided in this constitution; and each such annual regular session shall adjourn without day, at such time as shall be determined by concurrent resolution, at 12 o'clock noon. No motion, bill or resolution pending in one session of any term shall carry over into a later regular session.

HISTORY: Am. proposed J. R. 1, 1951, p. 591, ratified April, 1951 election. See Const. 1850, IV, 32, 33.

Senate and house; quorums.

Sec. 14.A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

HISTORY: See Const. 1850, IV, 8.

Same; powers.

Sec. 15.Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected from discharging a committee from the further consideration of any measure. Each house shall judge of the qualifications, elections and returns of its members, and may, with the concurrence of ⅔ of all the members elected, expel a member. The reasons for such expulsion shall be entered upon the journal, with the names of the members voting on the question. No member shall be expelled a second time for the same cause.

HISTORY: See Const. 1850, IV, 9.

Same; journals; right of member to protest.

Sec. 16.Each house shall keep a journal of its proceedings and publish the same, except such parts as may require secrecy. The yeas and nays of the members of either house on any question shall be entered on the journal at the request of ⅕ of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason for his dissent entered on the journal.

HISTORY: See Const. 1850, IV, 10.

Same; elections viva voce.

Sec. 17.In all elections by either house or in joint convention the votes shall be given viva voce. All votes on nominations to the senate shall be taken by yeas and nays and published with the journal of its proceedings.

HISTORY: See Const. 1850, IV, 11.

Same; meetings open to public; adjournment.

Sec. 18.The doors of each house shall be open unless the public welfare requires secrecy. Neither house shall, without the consent of the other, adjourn for more than 3 days, nor to any other place where the legislature may then be in session.

HISTORY: See Const. 1850, IV, 12.

Bills.

Sec. 19.All legislation by the legislature shall be by bill and may originate in either house of the legislature.

HISTORY: Am. proposed C. R. No. 4, 1913, p. 786; ratified April, 1913, election. See Const. 1850, IV, 13.

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Style of laws.

Sec. 20.The style of the laws shall be: "The People of the State of Michigan enact."

HISTORY: See Const. 1850, IV, 48.

Laws; object and title, revision, amendment, effective date.

Sec. 21.No law shall embrace more than 1 object, which shall be expressed in its title. No law shall be revised, altered or amended by reference to its title only; but the act revised and the section or sections of the act altered or amended shall be reenacted and published at length. No act shall take effect or be in force until the expiration of 90 days from the end of the session at which the same is passed, except that the legislature may give immediate effect to acts making appropriations and acts immediately necessary for the preservation of the public peace, health or safety by a ⅔ vote of the members elected to each house.

HISTORY: See Const. 1850, IV, 20, 25.

Bills; printing; subject matter at special session; amendment.

Sec. 22.No bill shall be passed or become a law at any regular session of the legislature until it has been printed and in the possession of each house for at least 5 days. No bill shall be passed at a special session of the legislature on any other subjects than those expressly stated in the governor's proclamation or submitted by special message. No bill shall be altered or amended on its passage through either house so as to change its original purpose.

HISTORY: New Section.

Same; reading, passage, vote.

Sec. 23.Every bill shall be read 3 times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills, the vote shall be by yeas and nays and entered on the journal.

HISTORY: See Const. 1850, IV, 19.

MAJORITY VOTE: Constitutional exceptions: two-thirds vote required, in case of appropriations for private purpose by Art. V, Sec. 24; and in case of laws dealing with trust companies and banks by Art. XII, Sec. 9.

Local acts, see Art. V, Sec. 30.

Immediate effect, see Art. V, Sec. 21.

Appropriations for local or private purposes.

Sec. 24.The assent of ⅔ of the members elected to each house of the legislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

HISTORY: See Const. 1850, IV, 45.

State contracts; printing; interest of state officer.

Sec. 25.Fuel, stationery, blanks, printing and binding for the use of the state shall be furnished under contract or contracts with the lowest bidder or bidders who shall give adequate and satisfactory security for the performance thereof. The legislature shall prescribe by law the manner in which the state printing shall be executed and the accounts rendered therefor; and shall prohibit all charges for constructive labor. It shall not rescind nor alter such contract, nor release the person or persons taking the same or his or their sureties from the performance of any of the conditions of the contract. No member of the legislature nor officer of the state shall be interested directly or indirectly in any such contract.

HISTORY: See Const. 1850, IV, 22.

Chaplain for prisons; appropriation for religious services.

Sec. 26.The legislature may authorize the employment of a chaplain for each of the state prisons; but no money shall be appropriated for the payment of any religious services in either house of the legislature.

HISTORY: See Const. 1850, IV, 24.

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Trial by jury.

Sec. 27.The legislature may authorize a trial by a jury of a less number than 12 men.

HISTORY: See Const. 1850, IV, 46.

Indeterminate sentences.

Sec. 28.The legislature may provide by law for indeterminate sentences, so called, as a punishment for crime, on conviction thereof, and for the detention and release of persons imprisoned or detained on said sentences.

HISTORY: See Const. 1850, IV, 47.

Regulation of employment.

Sec. 29.The Legislature shall have power to enact laws relative to the hours and conditions under which men, women and children may be employed.

HISTORY: Am. proposed J. R. No. 5, 1919, p. 767; ratified November, 1920, election. New section. Word "men" added by amendment.

Local or special acts; referendum.

Sec. 30.The Legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act, excepting acts repealing local or special acts in effect January 1, 1909 and receiving a ⅔ vote of the legislature shall take effect until approved by a majority of the electors voting thereon in the district to be affected.

HISTORY: Am. proposed J. R. 2, 1915, p. 572; ratified November election, 1916. New Section.

Sale of real estate.

Sec. 31.The legislature shall not authorize by private or special law the sale or conveyance of any real estate belonging to any person.

HISTORY: See Const. 1850, IV, 23. As to the vacating of roads, etc, see VII, 27 of this Constitution.

Divorces.

Sec. 32.Divorces shall not be granted by the legislature.

HISTORY: See Const. 1850, IV, 26.

Lotteries.

Sec. 33.The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

HISTORY: See Const. 1850, IV, 27.

Private claims.

Sec. 34.The legislature shall not audit nor allow any private claim or account.

HISTORY: See Const. 1850, IV, 31.

State paper.

Sec. 35.The legislature shall not establish a state paper.

HISTORY: See Const. 1850, IV, 35.

Bills passed; approval by governor, veto, reconsideration by legislature.

Sec. 36.Every bill passed by the legislature shall be presented to the governor before it becomes a law. If he approve, he shall sign it; if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon its journal and reconsider it. On such reconsideration, if ⅔ of the members elected agree to pass the bill, it shall be sent with the objections to the other house, by which it shall be reconsidered. If approved by ⅔ of the members elected to that house, it shall become a law. In such case the vote of both houses shall be determined by yeas and nays and the names of the members voting for and against the bill shall be entered on the journals of each house, respectively. If any bill be not returned by the governor within 10 days, Sundays excepted, after it has been presented to him, it shall become a law in like manner as if he had signed it, unless the legislature, by adjournment, pre-

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vents its return, in which case it shall not become a law. The governor may approve, sign and file in the office of the secretary of state within 5 days, Sundays excepted, after the adjournment of the legislature any bill passed during the last 5 days of the session, and the same shall become a law.

HISTORY: See Const. 1850, IV, 14. This section abolishes the distinction between concurrent and joint resolutions.

Appropriation bills; power of governor.

Sec. 37. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items; and the part or parts approved shall be the law; and the item or items disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

HISTORY: New Section.

Referendum on certain bills.

Sec. 38. Any bill passed by the legislature and approved by the governor, except appropriation bills, may be referred by the legislature to the qualified electors; and no bill so referred shall become a law unless approved by a majority of the electors voting thereon.

HISTORY: New Section.

Publication of statutes and decisions.

Sec. 39. All laws enacted at any session of the legislature shall be published in book form within 60 days after the final adjournment of the session, and shall be distributed in such manner as shall be provided by law. The speedy publication of such judicial decisions as may be deemed expedient shall also be provided for by law. All laws and judicial decisions shall be free for publication by any person.

HISTORY: See Const. 1850, IV, 36.

Revisions of laws; compilation.

Sec. 40. The legislature shall provide by law for the general revision of the statutes at such time and in such manner as it shall determine.

HISTORY: Am. proposed J. R. 2, 1961, p. 760, ratified November, 1962 election. See Const. 1850, XVIII, 15.

ARTICLE VI.

EXECUTIVE DEPARTMENT.

State officers; election, term, duties.

Sec. 1. There shall be elected at each general biennial election a governor, a lieutenant governor, a secretary of state, a state treasurer, a commissioner of the state land office, an auditor general and an attorney general, for the term of 2 years. They shall keep their offices at the seat of government, superintend them in person and perform such duties as may be prescribed by law. The office of commissioner of the state land office may be abolished by law.

HISTORY: See Const. 1850, V, 1, 3, VIII, 1, 2. Provision for the election of a superintendent of public instruction is made in Art. XI, Sec. 2, of this constitution.

Executive power.

Sec. 2. The chief executive power is vested in the governor.

HISTORY: See Const. 1850, V, 1.

Powers and duties of governor, execution of laws, information from state officers.

Sec. 3. The governor shall take care that the laws be faithfully executed; shall trans-

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act all necessary business with the officers of government; and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

HISTORY: See Const. 1850, V, 5, 6.

Same; military powers.

Sec. 4.He shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, to suppress insurrection and to repel invasion.

HISTORY: See Const. 1850, V, 4.

Same; messages.

Sec. 5.He shall communicate by message to the legislature, and at the close of his official term to the incoming legislature, the condition of the state, and recommend such measures as he may deem expedient.

HISTORY: See Const. 1850, V, 8.

Same; writs of election.

Sec. 6.He shall issue writs of election to fill such vacancies as occur in the senate or house of representatives.

HISTORY: See Const. 1850, V, 10.

Same; extra session of legislature.

Sec. 7.He may convene the legislature on extraordinary occasions.

HISTORY: See Const. 1850, V, 7.

Same; convening legislature elsewhere than capitol.

Sec. 8.He may convene the legislature at some other place when the seat of government becomes dangerous from disease or a common enemy.

HISTORY: See Const. 1850, V, 9.

Same; reprieves and pardons.

Sec. 9.He may grant reprieves, commutations and pardons after convictions for all offenses, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to regulations provided by law relative to the manner of applying for pardons. Upon conviction for treason, he may suspend the execution of the sentence until the case shall be reported to the legislature at its next session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the legislature at each session information of each case of reprieve, commutation or pardon granted and the reasons therefor.

HISTORY: See Const. 1850, V, 11.

Same; vacancies in state office.

Sec. 10.Whenever a vacancy shall occur in any of the state offices, the governor shall fill the same by appointment, by and with the advice and consent of the senate, if in session.

HISTORY: See Const. 1850, VIII, 3.

Great seal.

Sec. 11.All official acts of the governor, except his approval of the laws, shall be authenticated by the great seal of the state, which shall be kept by the secretary of state.

HISTORY: See Const. 1850, V, 18.

Commissions, issuance.

Sec. 12.All commissions issued to persons holding office under the provisions of this

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constitution shall be in the name and by the authority of the people of the state of Michigan, sealed with the great seal of the state, signed by the governor and countersigned by the secretary of state.

HISTORY: See Const. 1850, V, 19.

Eligibility to office of governor.

Sec. 13. No person shall be eligible to the office of governor or lieutenant governor who shall not have attained the age of 30 years and who has not been 5 years a citizen of the United States and a resident of this state 2 years next preceding his election.

HISTORY: See Const. 1850, V, 2.

Ineligibility to office of governor.

Sec. 14. No member of congress nor any person holding office under the United States or this state shall execute the office of governor, except as provided in this constitution.

HISTORY: See Const. 1850, V, 15.

Governor or lieutenant governor; eligibility to other office.

Sec. 15. No person elected governor or lieutenant governor shall be eligible to any office or appointment from the legislature, or either house thereof, during the time for which he was elected. All votes for either of them for any such office shall be void.

HISTORY: See Const. 1850, V, 16.

Vacancy; lieutenant governor to act; death of governor-elect.

Sec. 16. In case of the impeachment of the governor, his removal from office, death, inability, resignation or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term or until the disability ceases. When the governor shall be out of the state at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the state.

In case of the death of the governor-elect before taking and subscribing to the constitutional oath of office, or before entering upon the duties of his office, the powers and duties of the office shall devolve upon the lieutenant governor-elect on the commencement of his term of office.

HISTORY: Am. proposed J. R. 3, 1947, p. 731, ratified November, 1948 election. See Const. 1850, V, 12.

Same; line of succession and order of precedence.

Sec. 17. After the lieutenant governor, the line of succession and order of precedence of state officers, who shall act as governor, shall be secretary of state, attorney general, state treasurer and auditor general, and during a vacancy in the office of governor, if the lieutenant governor or any state officer or officers in this line of succession die, resign, be impeached, displaced, be incapable of performing the duties of office, or be absent from the state, leaving no state officer prior in the line of succession to fill the office of governor, the state officer next in line of succession shall act as governor during the residue of his term or until the absence or disability giving rise to the succession ceases.

In case of the death of the lieutenant governor-elect or any state officer or officer-elect in this line of succession before taking and subscribing to the constitutional oath of office, or before entering upon the duties of office, leaving no state officer-elect prior in line of succession to fill the office of governor, the powers and duties of the office of governor shall devolve upon the state officer-elect next in line on the commencement of his term of office.

HISTORY: Am. proposed J. R. 3, 1947, p. 731, ratified November, 1948 election. See Const. 1850, V, 13.

Compensation of acting governor.

Sec. 18. The lieutenant governor or other state officer in the line of succession, while

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performing the duties of governor, shall receive the same compensation as the governor.

HISTORY: Am. proposed J. R. 3, 1947, p. 732, ratified November, 1948 election. See Const. 1850, V, 17.

President of senate.

Sec. 19.The lieutenant governor shall be president of the senate, but shall have no vote.

HISTORY: See Const. 1850, V, 14.

Board of state auditors; state canvassers, escheats, fund commissioners.

Sec. 20.The secretary of state, state treasurer and such other state officer as shall be designated by law shall constitute a board of state auditors. They shall examine and adjust all claims against the state not otherwise provided for by general law. They shall act as a state board of escheats and a board of fund commissioners. They shall perform such other duties as may be prescribed by law.

HISTORY: Am. proposed J. R. 4, 1955, p. 750, ratified April, 1955 election. See Const. 1850, VIII, 4.

Salaries of state officers.

Sec. 21.The governor, secretary of state, state treasurer, auditor general, and attorney general shall each receive such compensation as shall be prescribed by law which shall be in full for all services performed and expenses incurred during his term of office: Provided, That the same shall not be changed during the term of office for which elected.

HISTORY: Am. proposed J. R. 1, 1948 Ex. Ses, p. 127, ratified November, 1948 election. See Const. 1850, IX, 1.

State civil service.

Sec. 22.The state civil service shall consist of all positions in the state service except those filled by popular election, heads of departments, members of boards and commissions, employees of courts of record, of the legislature, of the higher educational institutions recognized by the state constitution, all persons in the military and naval forces of the state, and not to exceed 2 other exempt positions for each elected administrative officer, and each department, board and commission.

There is hereby created a non-salaried civil service commission to consist of 4 persons, not more than 2 of whom shall be members of the same political party, appointed by the governor for 8-year, overlapping terms, the 4 original appointments to be for 2, 4, 6, and 8 years respectively. This commission shall supersede all existing state personnel agencies and succeed to their appropriations, records, supplies, equipment, and other property.

The commission shall classify all positions in the state civil service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the state civil service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the state civil service. No person shall be appointed to or promoted in the state civil service who has not been certified as so qualified for such appointment or promotion by the commission. No removals from or demotions in the state civil service shall be made for partisan, racial, or religious considerations.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the state civil service and who shall be responsible to and selected by the commission after open competitive examination.

To enable the commission to execute these powers, the legislature shall appropriate for the 6 months' period ending June 30, 1941, a sum of not less than ½ of 1 per cent, and for each and every subsequent fiscal year, a sum not less than 1 per cent, of the

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aggregate annual payroll of the state service for the preceding fiscal year as certified to by the commission.

After August 1, 1941, no payment for personal services shall be made or authorized until the provisions of this amendment have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

This amendment shall take effect on the first day of January following the approval thereof.

HISTORY. Added section. Am. proposed by initiative petition; ratified November, 1940, election.

ARTICLE VII.

JUDICIAL DEPARTMENT.

Judicial power.

Sec. 1.The judicial power shall be vested in 1 supreme court, circuit courts, probate courts, justices of the peace and such other courts of civil and criminal jurisdiction, inferior to the supreme court, as the legislature may establish by general law, by a ⅔ vote of the members elected to each house.

HISTORY: See Const. 1850, VI, 1.

THE SUPREME COURT.

Justices; election, term.

Sec. 2.The supreme court shall consist of 1 chief justice and associate justices, to be chosen by the electors of the state at the regular biennial spring elections; and not more than 2 justices shall go out of office at the same time. The term of office shall be prescribed by law.

HISTORY: See Const. 1850, VI, 2.

Terms of court.

Sec. 3.Four terms of the supreme court shall be held annually at such times and places as may be designated by law.

HISTORY: See Const. 1850, VI, 4.

Jurisdiction.

Sec. 4.The supreme court shall have a general superintending control over all inferior courts; and shall have power to issue writs of error, habeas corpus, mandamus, quo warranto, procedendo and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

HISTORY: See Const. 1850, VI, 3.

Court rules; law and equity.

Sec. 5.The supreme court shall by general rules establish, modify and amend the practice in such court and in all other courts of record, and simplify the same. The legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of master in chancery is prohibited.

HISTORY: See Const. 1850, VI, 5.

Appointments; clerk, reporter, crier; fees.

Sec. 6.The supreme court may appoint and remove its clerk, a reporter of its decisions and a court crier, each of whom shall perform such duties and receive such salary as shall be prescribed by law; and all fees, perquisites and income collected by the clerk shall be turned over by him to the state treasury and credited to the general fund. No justice of the supreme court shall exercise any other power of appointment to public office.

HISTORY: See Const. 1850, VI, 10, 12.

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Decisions; dissenting opinions.

Sec. 7.Decisions of the supreme court, including all cases of mandamus, quo warranto and certiorari, shall be in writing, with a concise statement of the facts and reasons for the decisions; and shall be signed by the justices concurring therein. Any justice dissenting from a decision shall give the reasons for such dissent in writing under his signature. All such opinions shall be filed in the office of the clerk of the supreme court.

HISTORY: See Const. 1850, VI, 10.

CIRCUIT COURTS.

Judicial circuits; terms; districts.

Sec. 8.The state shall be divided into judicial circuits in each of which there shall be elected 1 circuit judge. The legislature may provide by law for the election of more than 1 circuit judge in any judicial circuit. A circuit court shall be held at least 4 times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by law. The legislature may by law arrange the various circuits into judicial districts, and provide for the manner of holding courts therein. Circuits and districts may be created, altered or discontinued by law, but no such alteration or discontinuance shall have the effect to remove a judge from office.

HISTORY: See Const. 1850, VI, 6, 7, 11.

Judges, elections; term of office; ineligibility.

Sec. 9.Circuit judges shall be elected on the first Monday in April, 1911, and every sixth year thereafter. They shall hold office for a term of 6 years and until their successors are elected and qualified. They shall be ineligible to any other than a judicial office during the term for which they are elected and for 1 year thereafter.

HISTORY: See Const. 1850, VI, 9 and 20.

Jurisdiction.

Sec. 10.Circuit courts shall have original jurisdiction in all matters civil and criminal not excepted in this constitution and not prohibited by law, and appellate jurisdiction from all inferior courts and tribunals and a supervisory control of the same. They shall also have power to issue writs of habeas corpus, mandamus, injunction, quo warranto and certiorari and to hear and determine the same; and to issue such other writs as may be necessary to carry into effect their orders, judgments and decrees and give them general control over inferior courts and tribunals within their respective jurisdictions, and in all such other cases and matters as the supreme court shall by rule prescribe.

HISTORY: See Const. 1850, VI, 8.

Clerk; vacancies.

Sec. 11.The clerk of each county organized for judicial purposes shall be clerk of the circuit court for such county. The judges of the circuit courts may fill any vacancy in the offices of county clerk or prosecuting attorney within their respective jurisdictions, but shall not exercise any other power of appointment to public office.

HISTORY: See Const. 1850, VI, 10, 12.

Judges; salary.

Sec. 12.Each of the judges of the circuit courts shall receive a salary payable monthly. In addition to the salary paid from the state treasury, each circuit judge may receive from any county in which he regularly holds court such additional salary as may be determined from time to time by the board of supervisors of the county. In any county where such additional salary is granted it shall be paid at the same rate to all circuit judges regularly holding court therein.

HISTORY: See Const. 1850, VI, 6, 9.

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PROBATE COURTS.

Jurisdiction.

Sec. 13. In each county organized for judicial purposes, there shall be a probate court. The jurisdiction, powers and duties of such courts and of the judges thereof shall be prescribed by law, and they shall also have original jurisdiction in all cases of juvenile delinquents and dependents.

HISTORY: See Const. 1850, VI, 13.

Election; term of office.

Sec. 14. Judges of probate shall be elected in the counties in which they reside, and shall hold office for 4 years and until their successors are elected and qualified. They shall be elected on the Tuesday succeeding the first Monday of November, 1912, and every 4 years thereafter. The legislature may provide by law for the election of more than 1 judge of probate in counties with more than 100,000 inhabitants, and may provide for the election of such judges in such counties at alternate biennial elections.

HISTORY: See Const. 1850, VI, 13, 21.

JUSTICES OF THE PEACE.

Election; vacancies; justices in cities.

Sec. 15. There shall be elected in each organized township not to exceed 4 justices of the peace, each of whom shall hold the office for 4 years and until his successor is elected and qualified. At the first election in any township they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold the office for the residue of the unexpired term. The legislature may provide by law for justices in cities.

HISTORY: See Const. 1850, VI, 17.

RECLASSIFICATION: See Sec. 18, Article VIII of this constitution.

Jurisdiction.

Sec. 16. In civil cases, justices of the peace shall have exclusive jurisdiction to the amount of 100 dollars and concurrent jurisdiction to the amount of 300 dollars, which may be increased to 500 dollars, with such exceptions and restrictions as may be provided by law. They shall also have such criminal jurisdiction and perform such duties as shall be prescribed by law.

HISTORY: See Const. 1850, VI, 18.

GENERAL PROVISIONS.

Courts of record; seal; qualifications of justices and judges.

Sec. 17. The supreme court and the circuit and probate courts of each county shall be courts of record, and shall each have a common seal. Justices of the supreme court and judges of all circuit courts in this state elected or appointed after July 1, 1955, shall at the time of such election or appointment be under 70 years of age and licensed to practice law in this state.

HISTORY: Am. proposed J. R. 2, 1955, p. 748, ratified April, 1955 election. See Const. 1850, VI, 15.

Conservators of the peace.

Sec. 18. Justices of the supreme court, circuit judges and justices of the peace shall be conservators of the peace within their respective jurisdictions.

HISTORY: See Const. 1850, VI, 19.

Vacation of office.

Sec. 19. Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, or a justice of the peace from the township in which he was elected, or by a change in the boundaries of such township shall be placed without the

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same, he shall be deemed to have vacated the office.

HISTORY: See Const. 1850, VI, 22.

Vacancy; appointment of successor.

Sec. 20.When a vacancy occurs in the office of judge of any court of record, it shall be filled by appointment of the governor, and the person appointed shall hold the office until a successor is elected and qualified. When elected, such successor shall hold the office the residue of the unexpired term.

HISTORY: See Const. 1850, VI, 14.

Circuit court commissioners.

Sec. 21.The legislature may provide by law for the election of 1 or more persons in each organized county who may be vested with judicial powers not exceeding those of a judge of the circuit court at chambers.

HISTORY: See Const. 1850, VI, 16.

Style of process.

Sec. 22.The style of all process shall be: "In the Name of the People of the State of Michigan."

HISTORY: See Const. 1850, VI, 35.

Non-partisan elections for judiciary.

Sec. 23.All primary elections and elections of justices of the supreme court, judges of the circuit court, judges of probate courts and all county judicial officers provided for by the legislature under section 21 of article 7 of the constitution shall be non-partisan and shall be conducted as prescribed by law. All elections at which candidates for said judicial offices are nominated are designated "primary elections." Nominations for justices of the supreme court shall be made as now or hereafter provided by law; nominations for all other said judicial offices shall be made at non-partisan primary elections. Except as in the constitution otherwise provided, all primary election and election laws, including laws pertaining to partisan primaries and elections, shall, so far as applicable, govern nominating procedures, primary elections and elections hereunder. There shall be printed upon the ballot under the name of each incumbent judicial officer, who is a candidate for nomination or election to the same office, the designation of that office.

HISTORY: Added section. Am. proposed by initiative petition; ratified April, 1939, election;—Am. proposed J. R. 1, 1947, p. 729; ratified April, 1947, election;—Am. proposed J. R. 1, 1955, p. 747, ratified April, 1955 election.

ARTICLE VIII

LOCAL GOVERNMENT.

COUNTIES.

Counties; corporate character, suits.

Sec. 1.Each organized county shall be a body corporate, with such powers and immunities as shall be established by law. All suits and proceedings by or against a county shall be in the name thereof.

HISTORY: See Const. 1850, X, 1.

Townships in county; city as separate county.

Sec. 2.No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless in pursuance of law a majority of electors voting on the question in each county to be affected thereby shall so decide. When any city has attained a population of 100,000 inhabitants, the legislature may organize it into a separate county without reference to geographical extent, if a majority of the electors of such city and of the remainder of the county in which

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such city may be situated voting on the question shall each determine in favor of organizing said city into a separate county.

HISTORY: See Const. 1850, X, 2.

County officers.

Sec. 3.There shall be elected biennially in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office or separate the same at pleasure.

HISTORY: See Const. 1850, X, 3. See also XVI, 5, of this Constitution.

Offices at county seat.

Sec. 4.The sheriff, county clerk, county treasurer, judge of probate and register of deeds shall hold their offices at the county seat.

HISTORY: See Const. 1850, X, 4.

Sheriff; ineligibility for other office; election; term; security; responsibility for acts.

Sec. 5.The sheriff shall hold no other office. He shall be elected at the general election for the term of 2 years. He may be required by law to renew his security from time to time and in default of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts.

HISTORY: Am. proposed J. R. 1, 1925, p. 781; ratified November, 1926, election. See Const. 1850, X, 5.

Jury commissioners.

Sec. 6.The legislature shall by general law provide for the appointment of a board of jury commissioners in each county; but such law shall not become operative in any county until a majority of the electors of the county voting thereon shall so decide.

HISTORY: New Section.

Board of supervisors; representation of cities.

Sec. 7.A board of supervisors, consisting of 1 from each organized township, shall be established in each county, with such powers as shall be prescribed by law. Cities shall have such representation in the boards of supervisors of the counties in which they are situated as may be provided by law.

HISTORY: See Const. 1850, X, 6 and 7.

Local legislation.

Sec. 8.The legislature may by general law confer upon the boards of supervisors of the several counties such powers of a local, legislative and administrative character, not inconsistent with the provisions of this constitution, as it may deem proper.

HISTORY: See Const. 1850, IV, 38.

Salaries; claims against counties; appeals from decisions of board.

Sec. 9.The boards of supervisors shall have exclusive power to fix the salaries and compensation of all county officials not otherwise provided for by law. The boards of supervisors, or in counties having county auditors, such auditors, shall adjust all claims against their respective counties; appeals may be taken from such decisions of the boards of supervisors or auditors to the circuit court in such manner as shall be prescribed by law.

HISTORY: See Const. 1850, X, 10.

Power of taxation; limitation.

Sec. 10.The board of supervisors of any county may in any 1 year levy a tax of 1/10 of 1 mill on the assessed valuation of said county for the construction or repair of public buildings or bridges, or may borrow an equal sum for such purposes; and, in any

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county where the assessed valuation is less than 10,000,000 dollars, the board may levy a tax or borrow for such purposes to the amount of 1,000 dollars; but no greater sum shall be raised for such purposes in any county in any 1 year, unless submitted to the electors of the county and approved by a majority of those voting thereon.

HISTORY: See Const. 1850, X, 9.

Charitable institutions.

Sec. 11.Any county in this state, either separately or in conjunction with other counties, may appropriate money for the construction and maintenance or assistance of public and charitable hospitals, sanatoria or other institutions for the treatment of persons suffering from contagious or infectious diseases. Each county may also maintain an infirmary for the care and support of its indigent poor and unfortunate, and all county poor houses shall hereafter be designated and maintained as county infirmaries.

HISTORY: New Section.

Indebtedness; limitation.

Sec. 12.No county shall incur any indebtedness which shall increase its total debt beyond 3 per cent of its assessed valuation, except counties having an assessed valuation of 5,000,000 dollars or less, which counties may increase their total debt to 5 per cent of their assessed valuation.

HISTORY: Am. proposed C. R. No. 4, 1909, p. 805; ratified November, 1910, election. See Const. 1850, IV, 49. (That portion of the section in relation to indebtedness.)

Removal of county seat.

Sec. 13.No county seat once established shall be removed until the place to which it is proposed to be removed shall be designated by ⅔ of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

HISTORY: See Const. 1850, X, 8.

Navigable streams; permission to bridge or dam.

Sec. 14.No navigable stream of this state shall be either bridged or dammed without permission granted by the board of supervisors of the county under the provisions of law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and the municipalities therein. No such law shall preclude the state from improving the navigation of any such stream, nor prejudice the right of individuals to the free navigation thereof.

HISTORY: See Const. 1850, XVIII.

Townships; organization and consolidation.

Sec. 15.The board of supervisors of each organized county may organize and consolidate townships under such restrictions and limitations as shall be prescribed by law.

HISTORY: See Const. 1850, X, 11.

Drainage district bonds.

Sec. 15a.Any drainage district, established under provision of law, may issue bonds for drainage purposes within such district.

HISTORY: Added section. Am. proposed J. R. 2, 1917, p. 928, ratified April, 1917, election.

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TOWNSHIPS.

Townships; corporate character, suits.

Sec. 16. Each organized township shall be a body corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township shall be in the name thereof.

HISTORY: See Const. 1850, XI, 2.

Local legislation.

Sec. 17. The legislature may by general law confer upon organized townships such powers of a local, legislative and administrative character, not inconsistent with the provisions of this constitution, as it may deem proper.

HISTORY: See Const. 1850, IV, 38.

Township officers.

Sec. 18. There shall be elected on the first Monday of April in each odd numbered year for a term of 2 years in each organized township 1 supervisor, 1 township clerk, 1 commissioner of highways, 1 township treasurer, and not to exceed 4 constables, whose powers and duties shall be prescribed by law. Justices of the peace shall be reclassified as shall be prescribed by the legislature to conform with the provisions of this section providing for biennial township elections.

HISTORY: Am. proposed J. R. 1, 1943, p. 469; ratified April, 1943, election. See Const. 1850, XI, 1. (This section, however, eliminates the office of school inspector.)

Public utility franchises.

Sec. 19. No township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless such proposition shall have first received the affirmative vote of a majority of the electors of such township voting thereon at a regular or special election.

HISTORY: New Section.

CITIES AND VILLAGES.

Incorporation.

Sec. 20. The legislature shall provide by a general law for the incorporation of cities, and by a general law for the incorporation of villages; such general laws shall limit their rate of taxation for municipal purposes, and restrict their powers of borrowing money and contracting debts.

HISTORY: See Const. 1850, XVI, 13.

Charters; laws; ordinances.

Sec. 21. Under such general laws, the electors of each city and village shall have power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or passed by the legislature for the government of the city or village and, through its regularly constituted authority, to pass all laws and ordinances relating to its municipal concerns, subject to the Constitution and general laws of this state.

HISTORY: Am. proposed C. R. 2, 1912, 2nd Ex. Ses., p. 66; ratified November, 1912, election. New section.

Power to acquire and maintain parks, hospitals, etc.

Sec. 22. Any city or village may acquire, own, establish and maintain, either within or without its corporate limits, parks, boulevards, cemeteries, hospitals, almshouses and all works which involve the public health or safety.

HISTORY: New Section.

Public utilities; power to own and operate.

Sec. 23. Subject to the provisions of this constitution, any city or village may acquire, own and operate, either within or without its corporate limits, public utilities for supplying water, light, heat, power and transportation to the municipality and the inhabitants thereof; and may also sell and deliver heat, power and light without its corporate limits to an amount not to exceed 25 per cent of that furnished by it within the corpo-

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rate limits, and may also sell and deliver water outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines without the municipality within such limits as may be prescribed by law: Provided, That the right to own or operate transportation facilities shall not extend to any city or village of less than 25,000 inhabitants.

HISTORY: Am. proposed J. R. 3, 1943, p. 471; ratified November, 1944, election. New section.

Same; bonded indebtedness.

Sec. 24.When a city or village is authorized to acquire or operate any public utility, it may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law: Provided, That such mortgage bonds issued beyond the general limit of bonded indebtedness prescribed by law shall not impose any liability upon such city or village, but shall be secured only upon the property and revenues of such public utility, including a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than 20 years from the date of the sale of such utility and franchise on foreclosure.

HISTORY: New Section.

Elective franchise; taxation; public utilities.

Sec. 25.No city or village shall have power to abridge the right of elective franchise, to loan its credit, nor to assess, levy or collect any tax or assessment for other than a public purpose. Nor shall any city or village acquire any public utility or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless such proposition shall have first received the affirmative vote of ⅗ of the electors of such city or village voting thereon at a regular or special municipal election; and upon such proposition women taxpayers having the qualifications of male electors shall be entitled to vote.

HISTORY: See Const. 1850, IV, 38, and XV, 13, 14. See also Secs. 8 and 20 of this article.

GENERAL PROVISIONS.

Highways; powers of supervisors; county or district road system; tax limitation.

Sec. 26.The legislature may by general law provide for the laying out, construction, improvement and maintenance of highways, bridges and culverts by the state and by the counties and townships thereof and by road districts; and may authorize counties or districts to take charge and control of any highway within their limits for such purposes. The legislature may also by general law prescribe the powers and duties of boards of supervisors in relation to highways, bridges and culverts; may provide for county and district road commissioners to be appointed or elected, with such powers and duties as may be prescribed by law; and may change and abolish the powers and duties of township commissioners and overseers of highways. The legislature may provide by law for submitting the question of adopting the county road system to the electors of the counties, and such road system shall not go into operation in any county until approved by a majority of the electors thereof voting thereon. The tax raised for road purposes by counties shall not exceed in any 1 year 5 dollars upon each 1,000 dollars of assessed valuation for the preceding year.

HISTORY: Am. proposed J. R. 4, 1917, p. 931; ratified April, 1917, election. See Const. 1850, IV, 49.

Same; vacation, alteration.

Sec. 27.The legislature shall not vacate nor alter any road laid out by commissioners of highways, or any street, alley or public ground in any city or village or in any recorded town plat.

HISTORY: See Const. 1850, IV, 23.

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Highways, streets, etc.; use by utilities; control.

Sec. 28.No person, partnership, association or corporation operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any city, village or township for wires, poles, pipes, tracks or conduits, without the consent of the duly constituted authorities of such city, village or township; nor to transact a local business therein without first obtaining a franchise therefor from such city, village or township. The right of all cities, villages and townships to the reasonable control of their streets, alleys and public places is hereby reserved to such cities, villages and townships.

HISTORY: New Section.

Duration of franchise.

Sec. 29.No franchise or license shall be granted by any municipality of this state for a longer period than 30 years.

HISTORY: New Section.

Ports and port districts.

Sec. 30.The Legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

HISTORY: Added section. Am. proposed J. R. 1, 1923, p. 565; ratified April, 1923, election.

Metropolitan districts; incorporation; purposes; powers.

Sec. 31.The legislature shall by general law provide for the incorporation by any 2 or more cities, villages or townships, or any combination or parts of same, of metropolitan districts comprising territory within their limits, for the purpose of acquiring, owning and operating either within or without their limits as may be prescribed by law, parks or public utilities for supplying sewage disposal, drainage, water, light, power or transportation, or any combination thereof, and any such district may sell or purchase, either within or without its limits as may be prescribed by law, sewage disposal or drainage rights, water, light, power or transportation facilities. Any such districts shall have power to acquire and succeed to any or all of the rights, obligations and property of such cities, villages and townships respecting or connected with such functions or public utilities: Provided, That no city, village or township shall surrender any such rights, obligations or property without the approval thereof by a majority vote of the electors thereof voting on such question. Such general law shall limit the rate of taxation of such districts for their municipal purposes and restrict their powers of borrowing money and contracting debts. Under such general law, the electors of each district shall have power and authority to frame, adopt and amend its charter upon the approval thereof by a majority vote of the electors of each city, village and township, voting on such question, and, through its regularly constituted authority, to pass all laws and ordinances relating to its municipal concerns, subject to the Constitution and general laws of this State.

HISTORY: Added section. Am. proposed J. R. 1, 1927, p. 989; ratified April, 1927, election.

ARTICLE IX.

IMPEACHMENTS AND REMOVALS FROM OFFICE.

Impeachments.

Sec. 1.The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes or misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

HISTORY: See Const. 1850, XII, 1.

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Same; prosecution.

Sec. 2.When an impeachment is directed, the house of representatives shall elect from its own body 3 members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the legislature, when the senate shall proceed to try the same.

HISTORY: See Const. 1850, XII, 3.

Same; trial, conviction, judgment.

Sec. 3.Every impeachment shall be tried by the senate. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside. When an impeachment is directed, the senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of ⅔ of the members elected. Judgment in case of impeachment shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

HISTORY: See Const. 1850, XII, 2.

Judicial officer.

Sec. 4.No judicial officer shall exercise his office after an impeachment is directed until he is acquitted.

HISTORY: See Const. 1850, XII, 4.

Provisional appointment.

Sec. 5.The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, until he shall be acquitted or until after the election and qualification of a successor.

HISTORY: See Const. 1850, XII, 5.

Removal of judge by governor.

Sec. 6.For reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of ⅔ of the members elected to each house of the legislature; and the cause for which such removal is required shall be stated at length in such resolution.

HISTORY: See Const. 1850, XII, 6.

Removal of other state officer by governor.

Sec. 7.The governor shall have power and it shall be his duty, except at such time as the legislature may be in session, to examine into the condition and administration of any public office and the acts of any public officer, elective or appointive; to remove from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the causes of such removal to the legislature at its next session.

HISTORY: See Const. 1850, XII, 8, and notes thereto.

For the authority of the governor to appoint a state officer for the remainder of an unexpired term, see VI, 10.

Removal of municipal officer.

Sec. 8.Any officer elected by a county, city, village, township or school district may be removed from office in such manner and for such cause as shall be prescribed by law.

HISTORY: See Const. 1850, XII, 7.

ARTICLE X.

FINANCE AND TAXATION.

Primary school interest fund.

Sec. 1.All subjects of taxation now contributing to the primary school interest fund under present laws shall continue to contribute to that fund, and all taxes from such

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subjects shall be first applied in paying the interest upon the primary school, university and other educational funds in the order herein named, after which the surplus of such moneys shall be added to and become a part of the primary school interest fund.

HISTORY: This and the following section revise Const. 1850, XIV, 1.

Tax for state expenses.

Sec. 2.The legislature shall provide by law for an annual tax sufficient with other resources to pay the estimated expenses of the state government, the interest on any state debt and such deficiency as may occur in the resources.

HISTORY: See Const. 1850, XIV, 1.

Uniform rule of taxation.

Sec. 3.The legislature shall provide by law a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law: Provided, That the legislature shall provide by law a uniform rule of taxation for such property as shall be assessed by a state board of assessors, and the rate of taxation on such property shall be the rate which the state board of assessors shall ascertain and determine is the average rate levied upon other property upon which ad valorem taxes are assessed for state, county, township, school and municipal purposes.

HISTORY: See Const. 1850, XIV, 11.

Specific taxes.

Sec. 4.The legislature may by law impose specific taxes, which shall be uniform upon the classes upon which they operate.

HISTORY: See Const. 1850, XIV, 10.

Assessment of property of public utilities.

Sec. 5.The legislature may provide by law for the assessment at its true cash value by a state board of assessors, of which the governor shall be ex-officio a member, of the property of corporations and the property, by whomsoever owned, operated or conducted, engaged in the business of transporting passengers and freight, transporting property by express, operating any union station or depot, transmitting messages by telephone or telegraph, loaning cars, operating refrigerator cars, fast freight lines or other car lines and running or operating cars in any manner upon railroads, or engaged in any other public service business; and for the levy and collection of taxes thereon.

HISTORY: See Const. 1850, IV, 10.

Laws imposing taxes.

Sec. 6.Every law which imposes, continues or revives a tax shall distinctly state the tax, and the objects to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

HISTORY: See Const. 1850, XIV, 14.

Assessments.

Sec. 7.All assessments hereafter authorized shall be on property at its cash value.

HISTORY: See Const. 1850, XIV, 12.

Equalization of assessments.

Sec. 8.In the year 1911, every fifth year thereafter and at such other times as the legislature may direct, the legislature shall provide by law for an equalization of assessments by a state board, on all taxable property, except that taxed under laws passed pursuant to sections 4 and 5 of this article.

HISTORY: See Const. 1850, XIV, 13

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Power of taxation, surrender by contract.

Sec. 9.The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any municipal corporation shall be a party.

HISTORY: New Section.

Indebtedness; limitation.

Sec. 10.The state may contract debts to meet deficits in revenue, but such debts shall not in the aggregate at any time, exceed 250,000 dollars. The state may also contract debts to repel invasion, suppress insurrection, defend the state or aid the United States in time of war. The money so raised shall be applied to the purposes for which it is raised or to the payment of the debts contracted. The state may borrow not to exceed 50,000,000 dollars for the improvement of highways and pledge its credit, and issue bonds therefor on such terms as shall be provided by law.

HISTORY: Am. proposed J. R. 1, 1919, p. 763; ratified April, 1919, election. See Const. 1850, XIV, 3, 4.

Issue of scrip or other evidence of debt.

Sec. 11.No scrip, certificate or other evidence of state indebtedness shall be issued, except for such debts as are expressly authorized in this constitution.

HISTORY: See Const. 1850, XIV, 7.

State credit.

Sec. 12.The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private.

HISTORY: See Const. 1850, XIV, 6.

Stock, interest of state in.

Sec. 13.The state shall not subscribe to, nor be interested in the stock of any company, association or corporation.

HISTORY: See Const. 1850, XIV, 8.

Internal improvement.

Sec. 14.The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except:

1.In the development, improvement and control of or aiding in the development, improvement and control of public roads, harbors of refuge, water-ways, airways, airports, landing fields and aeronautical facilities;

2.In the development, improvement and control of or aiding in the development, improvement and control of rivers, streams, lakes and water levels, for purposes of drainage, public health, control of flood waters and soil erosion;

3.In reforestation, protection and improvement of lands in the state of Michigan;

4.In the expenditure of grants to the state of land or other property.

HISTORY: Am. proposed J. R. 1, 1946, 1st Ex. Ses., p. 73; ratified November, 1946, election.

State depositories.

Sec. 15.No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 per cent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

HISTORY: New Section.

Payments from treasury.

Sec. 16.No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

HISTORY: See Const. 1850, XIV, 5.

Public moneys; statement of receipts and expenditures.

Sec. 17.An accurate statement of the receipts and expenditures of the public mon-

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ews shall be attached to and published with the laws passed at every regular session of the legislature.

HISTORY: See Const. 1850, XVIII, 5.

Accounts of public officials.

Sec. 18.The legislature shall provide by law for the keeping of accounts by all state officials, boards and institutions, and by all county officials; and shall also provide for the supervision and audit thereof by competent state authority and for uniform reports of all public accounts to such authority. Such systems of account shall provide for accurate records of all financial and other transactions and for checks upon all receipts and disbursements of all such officials, boards and institutions; and shall be uniform for all similar boards, institutions and county officials. All public accounts and the audit thereof shall be public records and open to inspection.

HISTORY: New Section.

Ineligibility of certain persons to public office.

Sec. 19.No collector, holder or disburser of public moneys shall have a seat in the legislature, nor be eligible to any office of trust or profit under this state, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

HISTORY: See Const. 1850, IV, 30.
LEGISLATORS: See Art. V, 6.

Railroads; acquisition and disposal by state.

Sec. 20.It shall be competent for the state to acquire, purchase, take, hold and operate any railroad, or railroad property, belonging to any railroad or railway company in this State heretofore organized under a special charter still in force and effect and constituting a contract between the state and said company, wherein the right to purchase or acquire has been reserved to the state, whenever in the judgment of the legislature such acquisition or purchasing is necessary to protect and conserve the rights and interests of the state under such charter or contract. Any and all debts or obligations of such company constituting a lien upon such railroad, or railroad property, may be assumed by the state; and such road or property may be leased, sold or disposed of in such manner as may be provided by law.

HISTORY: Added section. Am. proposed J. R. 3, 1917, p. 929; ratified April, 1917, election.

Bonus to veterans of World War I.

Sec. 20[a].The state shall borrow not to exceed 30,000,000 dollars, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of paying to each person who entered into the military, naval or marine forces of the United States between April sixth, 1917, and November eleventh, 1918, and served honestly and faithfully therein during the late world war and who was a resident in this state at the time of entering such service, the sum of 15 dollars for each month or major fraction thereof, of such service, up to and including August first, 1919.

HISTORY: Added section. Am. proposed J. R. 1, 1921, p. 753; ratified April, 1921, election.

This section was erroneously numbered 20 in the resolution as adopted by the legislature, the original section 20 of this article having been added in 1917.

The bonds, issued under Act 1, 1921, 1st Ex. Ses., being C L 1929, 864 et seq., have been retired.

NOTE: The bracketed material does not appear in the original form of the Constitution, and is inserted here merely for purposes of compilation and indexing.

15 Mill limitation.

Sec. 21.The total amount of taxes assessed against property for all purposes in any one year shall not exceed one and one-half per cent of the assessed valuation of said property, except taxes levied for the payment of interest and principal on obligations heretofore incurred, which sums shall be separately assessed in all cases: Provided, That this limitation may be increased for a period of not to exceed twenty years at any

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one time, to not more than a total of five per cent of the assessed valuation, by a majority vote of the electors of any assessing district, or when provided for by the charter of a municipal corporation: Provided further, That this limitation shall not apply to taxes levied in the year 1932.

HISTORY: Added section. Am. proposed by initiative petition; ratified November, 1932, election;—Am. proposed by initiative petition, ratified November, 1948 election.

Gas and weight taxes.

Sec. 22.All taxes imposed directly or indirectly upon gasoline and like fuels sold or used to propel motor vehicles upon the highways of this state, and on all motor vehicles registered in this state, shall, after the payment of the necessary expenses of collection thereof, be used exclusively for highway purposes, including the payment of public debts incurred therefor, and shall not be diverted nor appropriated to any other purpose; provided, the legislature may provide by law a method of licensing, registering, and transferring motor vehicles and their certificates of title, and licensing and regulating motor vehicle dealers and operators; and may prescribe charges sufficient to pay for the enforcement thereof. The provisions of this section shall not apply to the general sales tax, the use tax, the fees and taxes collected under the auto theft and operators' and chauffeurs' license laws which are used for regulatory purposes; the application fees and mileage fees appropriated to the Michigan public utilities commission by Act No. 254 of 1933; the franchise or privilege fees payable generally by corporations organized for profit; nor to ad valorem taxes payable generally by manufacturers, refiners, importers, storage companies, and wholesale distributors on gasoline and like fuels held in stock or bond, and by manufacturers and dealers on motor vehicles in stock or bond.

HISTORY: Added section. Am. proposed by initiative petition; ratified November, 1938, election.

State sales tax, distribution; annual school grants.

Sec. 23.There shall be returned to local governmental units by the method hereinafter set forth, ½ cent of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate). The state disbursing authority shall remit to counties as a whole on a population basis and payment shall be made to the county treasurer who shall remit to the respective cities, townships and villages within the county on a per capita basis. Population computation shall be based on the last and each succeeding state-wide federal census for purposes of division among counties and upon the same basis or upon any special federal county-wide census, whichever is later, for intra-county division purposes. There shall be excluded from such computation 50% of the total number of persons who are wards, patients or convicts committed to or domiciled in any city institution located outside the boundaries of said city or committed to or domiciled in any county, state or federal tax supported institution, provided such persons were included in said federal census. All remittances provided shall be made on a quarterly basis.

There shall be set aside for the school districts 2 cents of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate), to be allocated among said school districts by law. Such taxes so collected shall be deposited in a special school aid fund and be expendable only by legislative appropriations for aid to the school districts and school employees' retirement purposes as shall be provided by law. Said school aid fund shall be separate and distinct from the state general fund.

Prior to any division or allocation of the sales tax, the cost of collection as determined by the department of revenue shall be deducted from total collections and credited to the general fund of the state.

The legislature shall by law appropriate from the school aid fund for such public

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school employees' retirement systems as shall from time to time be in effect under the laws of this state an amount which shall not be less than 5% nor more than 7½% of the salaries of school district employees participating in the respective retirement systems. Such percentages shall apply only to that portion of salary as may be provided by law. At no time shall the legislature levy a sales tax of more than 4%.

HISTORY: Added section. Am. proposed by initiative petition; ratified November, 1946, election;—Am. proposed J. R. 1, 1954, p. 601, ratified November, 1954 election;—Am. proposed J. R. 2, 1960, p. 286, ratified November, 1960 election.

Military service bonus.

Sec. 23[a].The state shall borrow not to exceed $270,000,000.00, pledge its faith and credit and issue its serial notes or serial bonds therefor, for the purpose of paying to each person, or if deceased to the surviving husband or wife, child or children, or to the surviving dependent mother, father, person standing in loco parentis, brothers and sisters, in the order named, of any person who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, between September 16, 1940, and June 30, 1946, who served honorably and faithfully therein during said period, who was a resident of this state at the time of entering such service and for a period of at least 6 months prior to entering therein, and whose service continued for more than 60 days during said period, the sum of $10.00 for each month, or major fraction thereof, of service during said period in any state of the United States, and the District of Columbia, and the sum of $15.00 for each month, or major fraction thereof, of service during said period outside any state of the United States, and the District of Columbia, but not to exceed a total payment of $500.00 to any one person: Provided, That there shall be paid to the surviving husband or wife, child or children, or to the surviving dependent mother, father, person standing in loco parentis, brothers and sisters, in the order named, of each person who has heretofore died or who shall hereafter die from service connected causes incurred between September 16, 1940, and June 30, 1946, a sum equal to the difference between what he has received and the sum of $500.00.

The legislature is authorized and directed to provide for the issuance of serial notes or serial bonds, for the method of and eligibility for payment of the sums herein directed and for the retirement of such notes and bonds as shall be issued hereunder. The legislature is authorized and directed to provide for the borrowing of the money herein provided at the lowest possible cost to the state, and is further authorized and directed to provide by taxation or other means for the retirement of the debt at the earliest possible time. In the event that the cost of the payments herein provided shall be greater than the amount authorized to be borrowed, the legislature is authorized and directed to provide for the payment thereof from the general fund of the state.

HISTORY: Added section, also numbered 23. Am. proposed by J. R. 1, 1948, 2nd Ex. Ses., p. 19; ratified November, 1946, election.

NOTE: The bracketed material does not appear in the original form of the Constitution, and is inserted here merely for purposes of compilation and indexing.

Borrowing for hospital construction; bonds.

Sec. 24.The state may borrow not to exceed $65,000,000.00 to plan, acquire, construct and equip hospitals for the mentally ill and epileptics, and training schools for mental defectives and the tuberculosis hospitals and issue bonds pledging the full faith and credit of the state, on such terms as shall be provided by law.

HISTORY: Added section. Am. proposed J. R. 1, 1950 Ex. Ses.; p. 135, ratified November, 1950 election.

Death benefit bonus; termination of national emergency.

Sec. 25.There shall be paid, from the moneys authorized to be borrowed under the provisions of section 23 of this article for the payment of a bonus with respect to military service, to the surviving husband or wife, child or children, or to the surviving mother or father, or surviving dependent person standing in loco parentis, dependent brothers and dependent sisters, in the order named, of any person who has heretofore

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died or who shall hereafter die from service connected causes and who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, between June 27, 1950, and the termination of the state of national emergency, which state of national emergency was proclaimed on December 16, 1950, who served honorably and faithfully therein during such period, who was a resident of this state at the time of entering such service and for a period of at least 6 months prior to entering therein, the sum of $500.00: Provided, That the termination of the national emergency for the purpose of this section shall be determined by act of the legislature of this state, and the liability of the state for the purposes herein set forth shall not exceed the total amount that may be borrowed under the provisions of said section 23 of this article.

HISTORY: Added section. Am. proposed J. R. 2, 1951, p. 591, ratified April, 1951 election.

Military service bonus.

Sec. 26.The state shall borrow not to exceed $80,000,000.00, pledge its faith and credit and issue its serial notes or serial bonds therefor, with maturities of not to exceed $1,000,000.00 in each of the years 1956 to 1965, both inclusive, and $13,000,000.00 in each of the years 1966 to 1968, both inclusive, and $14,000,000.00 in each of the years thereafter, for the purpose of paying to each person, or if deceased to the surviving husband or wife, child or children, or to the surviving mother, father, person standing in loco parentis, brothers and sisters, in the order named, of any person who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, between June 27, 1950, and December 31, 1953, who served honorably and faithfully therein during said period, who was a resident of this state at the time of entering such service and for a period of at least 6 months prior to entering therein, and whose service continued for more than 60 days during said period, the sum of $10.00 for each month, or major fraction thereof, of service during said period in any state of the United States, and the District of Columbia, and the sum of $15.00 for each month, or major fraction thereof, of service during said period outside any state of the United States, and the District of Columbia, but not to exceed a total payment of $500.00 to any one person: Provided, That there shall be paid to the surviving husband or wife, child or children, or to the surviving dependent mother, father, person standing in loco parentis, brothers and sisters, in the order named, of each person who has heretofore died or who shall hereafter die from service connected causes incurred between June 27, 1950, and December 31, 1953, a sum equal to the difference between what he has received and the sum of $500.00: Provided further, That no payment shall be made under the provisions of this section in any case in which payment has been made or shall hereafter be made under the provisions of section 25 of this article, payment both under the provisions of this section and section 25 of this article being expressly prohibited.

The state administrative board is authorized and directed to provide by resolution from time to time for the issuance and sale of serial notes or serial bonds at the lowest possible cost, and the legislature is authorized to provide for the method of and eligibility for payment of the sums herein directed. For the retirement of such notes and bonds as shall be issued hereunder, there is appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each such year. The powers and duties conferred by this amendment on the state administrative board are self-executing.

HISTORY: Added section. Am. proposed J. R. 2, 1954, p. 602, ratified November, 1954 election.

Borrowing for loans to school districts.

Sec. 27.The state may borrow from time to time such amounts as may be required but not to exceed an aggregate of $100,000,000.00, pledge its faith and credit and issue

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its notes or bonds therefor, for the purpose of making loans to school districts for the payment of principal and interest on school bonds heretofore or hereafter issued for acquiring, constructing, enlarging, improving and equipping school buildings and sites and for the funding or refunding of obligations incurred for 1 or more of the aforesaid purposes.

If the minimum amount necessary to be levied in any calendar year for the payment of principal and interest on the bonds of a school district issued prior to July 1, 1962, after deducting any funds pledged to and available for the payment thereof, shall exceed 13 mills on each dollar of its assessed valuation as last equalized by the state, then the state of Michigan shall loan such school district the amount of such excess, but all loans so made shall not exceed in the aggregate sum of $100,000,000.00 and shall be subject to such terms and conditions as shall be prescribed by law. After a school district shall have received such a loan or loans from the state, it shall thereafter levy each year not less than the said 13 mills until the amount loaned has been repaid and any tax collections in any year over and above the minimum requirements for principal and interest shall be used towards the repayment of such loan or loans. The legislature shall prescribe the conditions upon which levies for bond principal and interest shall be included in computing the amount to be loaned by the state under this section, one of which conditions shall be that the maturities on the bonds of any future issue shall conform with statutory requirements, with the last maturity date not less than 25 years from the issuance date on the bonds.

The tax limitation prescribed in section 21 of this article shall not apply to tax levies for any future issue of school district bonds issued prior to July 1, 1962, including refunding bonds, and such tax levies shall be without limitation as to rate or amount: Provided, That the bonds of such issue last maturing shall be due in not less than 25 years from date of issuance but may be subject to prior redemption in accordance with the provisions thereof.

HISTORY: Added section. Am. proposed J. R. 3, 1955, p. 748, ratified April, 1955 election.

Borrowing for additional loans to school districts.

Sec. 28. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which it would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as last equalized by the state, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall loan the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall loan to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued (1) prior to May 4, 1955, (2) on or after May 4, 1955 but prior to July 1, 1962, only if, and to the extent that, such bonds shall have been qualified as provided by law pursuant to section 27 of this article, and (3) on or after July 1, 1962, but prior to July 1, 1972, if such bonds shall be qualified as provided by law pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills

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or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used towards the repayment of state loans. In any year when such a levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and/or limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made pursuant to this section, shall be without limitation as to rate or amount.

All rights acquired under section 27 of this article by holders of bonds issued prior to July 1, 1962, shall remain unimpaired.

This section shall take effect on July 1, 1962.

HISTORY: Added section. Am. proposed J. R. 1, 1960, p. 285, ratified November, 1960 election.

ARTICLE XI.
EDUCATION.

Encouragement of education.

Sec. 1.Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

HISTORY: New Section.

Superintendent of public instruction; election; term; duties; compensation.

Sec. 2.A superintendent of public instruction shall be elected at the regular election to be held on the first Monday in April, nineteen hundred nine, and every second year thereafter. He shall hold office for a period of two years from the first day of July following his election and until his successor is elected and qualified. He shall have general supervision of public instruction in the state. He shall be a member and secretary of the state board of education. He shall be ex-officio a member of all other boards having control of public instruction in any state institution, with the right to speak but not to vote. His duties and compensation shall be prescribed by law.

HISTORY: See Const. 1850, 13, 1; 8, 1; 9, 1.

STATE BOARD OF EDUCATION: See Sec. 6, Art. XI of this constitution.

Regents of university; election, term, vacancy.

Sec. 3.There shall be a board of regents of the university, consisting of 8 members, who shall hold the office for 8 years. There shall be elected at each regular biennial spring election 2 members of such board. When a vacancy shall occur in the office of regent it shall be filled by appointment of the governor.

HISTORY: See Const. 1850, XII, 6.

Same; name.

Sec. 4.The regents of the university and their successors in office shall continue to constitute the body corporate known as the "The Regents of the University of Michigan."

HISTORY: See Const. 1850, XIII, 7.

University; president; supervision.

Sec. 5.The regents of the university shall, as often as necessary, elect a president of the university. The president of the university and the superintendent of public instruction shall be ex-officio members of the board of regents, with the privilege of

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speaking but not of voting. The president shall preside at the meetings of the board and be the principal executive officer of the university. The board of regents shall have the general supervision of the university and the direction and control of all expenditures from the university funds.

HISTORY: See Const. 1850, XIII, 8.

State board of education; election; powers and duties.

Sec. 6.The state board of education shall consist of 4 members. On the first Monday in April, 1909, and at each succeeding biennial spring election, there shall be elected 1 member of such board who shall hold his office for 6 years from the first day of July following his election. The state board of education shall have general supervision of the state normal college and the state normal schools, and the duties of said board shall be prescribed by law.

HISTORY: See Const. 1850, XIII, 9.
Superintendent of public instruction a member and secretary, see Sec. 2, Art. XI of this constitution.

Michigan State University board of trustees; election, term.

Sec. 7.There shall be elected on the first Monday in April, 1909, a board of trustees to consist of 6 members, 2 of whom shall hold the office for 2 years, 2 for 4 years and 2 for 6 years. At every regular biennial spring election thereafter, there shall be elected 2 members whose term of office shall be 6 years. The members thus elected and their successors in office shall be a body corporate to be known as "The board of trustees of Michigan state university of agriculture and applied science." The board of trustees shall be the successor in interest to all the rights, powers, assets and liabilities of the state board of agriculture.

HISTORY: New Section. Am. proposed J. R. 2, 1959, p. 481, ratified April, 1959 election.

President of Michigan State university; duties of board of trustees.

Sec. 8.The board of trustees shall, as often as necessary, elect a president of Michigan state university, who shall be ex-officio a member of the board with the privilege of speaking but not of voting. He shall preside at the meetings of the board and be the principal executive officer of Michigan state university. The board shall have the general supervision of Michigan state university, and the direction and control of all Michigan state university funds; and shall perform such other duties as may be prescribed by law.

HISTORY: New Section. Am. proposed J. R. 2, 1959, p. 481, ratified April, 1959 election.

Primary school system.

Sec. 9.The legislature shall continue a system of primary schools, whereby every school district in the state shall provide for the education of its pupils without charge for tuition; and all instruction in such schools shall be conducted in the English language. If any school district shall neglect to maintain a school within its borders as prescribed by law for at least 5 months in each year, or to provide for the education of its pupils in another district or districts for an equal period, it shall be deprived for the ensuing year of its proportion of the primary school interest fund. If any school district shall, on the second Monday in July of any year, have on hand a sufficient amount of money in the primary school interest fund to pay its teachers for the next ensuing 2 years as determined from the pay roll of said district for the last school year, and in case of a primary district, all tuition for the next ensuing 2 years, based upon the then enrollment in the seventh and eighth grades in said school district, the children in said district shall not be counted in making the next apportionment of primary school money by the superintendent of public instruction; nor shall such children be counted

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in making such apportionment until the amount of money in the primary school interest fund in said district shall be insufficient to pay teachers' wages or tuition as herein set forth for the next ensuing 2 years.

HISTORY: Am. proposed C. R. 1, 1911, p. 537; ratified April, 1911, election. See Const. 1850, XIII, 4 and 5.

Educational institutions; maintenance.

Sec. 10.The legislature shall maintain the university, the college of mines, the state agricultural college, the state normal college and such state normal schools and other educational institutions as may be established by law.

HISTORY: New Section.

Proceeds of school land.

Sec. 11.The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the state for educational purposes and the proceeds of all lands or other property given by individuals or appropriated by the state for like purposes shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation.

HISTORY: See Const. 1850, XIII, 2.

Escheats.

Sec. 12.All lands, the titles to which shall fail from a defect of heirs, shall escheat to the state, and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of the primary schools.

HISTORY: See Const. 1850, XIII, 3. Primary school interest fund, see Sec. 1, Article X, of this constitution.

Salt spring lands; sale for benefit of agricultural college.

Sec. 13.The legislature shall appropriate all salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have already been sold, and any funds or lands which may hereafter be granted or appropriated for such purpose, for the support and maintenance of the agricultural college.

HISTORY: See Const. 1850, XIII, 11.

Township and city libraries; fines.

Sec. 14.The legislature shall provide by law for the establishment of at least 1 library in each township and city; and all fines assessed and collected in the several counties, cities and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries.

HISTORY: See Const. 1850, XIII, 12.

Charitable institutions.

Sec. 15.Institutions for the benefit of those inhabitants who are deaf, dumb, blind, feeble-minded or insane shall always be fostered and supported.

HISTORY: See Const. 1850, XIII, 10.

Wayne State University board of governors; election, term, president, duties, accounting.

Sec. 16.There shall be a board of governors of Wayne state university, consisting of 6 members, who shall hold office for 6 years. There shall be elected at each regular biennial spring election 2 members of such board. When a vacancy occurs in the board of governors, it shall be filled by appointment of the governor. The board of governors of Wayne state university and their successors in office shall continue to constitute the body corporate known as "the board of governors of Wayne state university". The board of governors shall, as often as necessary, elect a president of Wayne state university. The president and the superintendent of public instruction shall be ex officio members of the board of governors, with the privilege of speaking but not of voting.

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The president shall preside at the meetings of the board and be the principal executive officer of Wayne state university. The board of governors of Wayne state university shall have general supervision of Wayne state university and the duties of said board shall be prescribed by law. The legislature shall be given an annual detailed accounting of all income from whatever source derived and all expenditures by Wayne state university.

HISTORY: Added section. Am. proposed J. R. 3, 1959, p. 482, ratified April, 1959 election.

ARTICLE XII.

CORPORATIONS.

Corporation; creation; amendment or repeal of laws.

Sec. 1. Corporations may be formed under general laws, but shall not be created, nor shall any rights, privileges or franchises be conferred upon them, by special act of the legislature. All laws heretofore or hereafter passed by the legislature for the formation of, or conferring rights, privileges or franchises upon corporations and all rights, privileges or franchises conferred by such laws may be amended, altered, repealed or abrogated.

HISTORY: See Const. 1850, XV, 1.

Same; construction of term, suits.

Sec. 2. The term "corporation" as used in this article shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and be subject to be sued in all courts in like cases as natural persons.

HISTORY: See Const. 1850, XV, 11.

Duration of franchise; extension of corporate life.

Sec. 3. No corporation shall be created for a longer period than 30 years, except for municipal, railroad, insurance, canal or cemetery purposes, or corporations organized without any capital stock for religious, benevolent, social or fraternal purposes; but the legislature may provide by general laws, applicable to any corporations, for 1 or more extensions of the term of such corporations, while such term is running, not exceeding 30 years for each extension, on the consent of not less than ⅔ of the capital stock of the corporation; and by like general laws for the corporate reorganization for a further period, not exceeding 30 years, of such corporations whose terms have expired by limitation, on the consent of not less than ⅘ of the capital stock.

HISTORY: See Const. 1850, XV, 10.

Liability of stockholders.

Sec. 4. The stockholders of every corporation and joint stock association shall be individually liable for all labor performed for such corporation or association.

HISTORY: See Const. 1850, XV, 7.

Real estate, limitation of time of holding.

Sec. 5. No corporation shall hold any real estate for a longer period than 10 years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

HISTORY: See Const. 1850, XV, 12.

Special act of incorporation; extension.

Sec. 6. The legislature shall pass no law renewing or extending any special act of incorporation heretofore granted.

HISTORY: See Const. 1850, XV, 8.

Passenger fares and freight rates.

Sec. 7. The legislature may, from time to time, pass laws establishing reasonable

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maximum rates of charges for the transportation of passengers and freight on different railroads in this state, and may pass laws establishing reasonable maximum rates of charges for the transportation of property by express companies in this state, and may delegate such power to fix reasonable maximum rates of charges for the transportation of freight by railroad companies and for the transportation of property by express companies to a commission created by law; and shall prohibit running contracts between such railroad companies whereby discrimination is made in favor of either of such companies as against other companies owning connecting or intersecting lines of railroad.

HISTORY: See Const. 1850, XIXa., 1.

Consolidation of railroads.

Sec. 8.No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon at least 60 days' public notice to all stockholders in such manner as shall be provided by law.

HISTORY: See Const. 1850, XIXa., 2.

Banking and trust company laws.

Sec. 9.No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be adopted, amended or repealed except by a vote of ⅔ of the members elected to each house of the legislature. Such laws shall not authorize the issue of bank notes or paper credit to circulate as money.

HISTORY: See Const. 1850, XV, 2.

ARTICLE XIII.

EMINENT DOMAIN.

Taking of property; necessity; compensation.

Sec. 1.Private property shall not be taken by the public nor by any corporation for public use, without the necessity therefor being first determined and just compensation therefor being first made or secured in such manner as shall be prescribed by law.

HISTORY: See Const. 1850, XV, 9 and 15, XVIII, 14.

Determination of necessity and compensation.

Sec. 2.When private property is taken for the use or benefit of the public, the necessity for using such property and the just compensation to be made therefor, except when to be made by the state, shall be ascertained by a jury of 12 freeholders residing in the vicinity of such property, or by not less than 3 commissioners appointed by a court of record, as shall be prescribed by law: Provided, That the foregoing provision shall not be construed to apply to the action of commissioners of highways or road commissioners in the official discharge of their duties.

HISTORY: See Const. 1850, XVIII, 2.

Private roads.

Sec. 3.Private roads may be opened in the manner prescribed by law; but in every case the necessity for the road and the amount of all damages to be sustained by the opening thereof shall be first determined by a jury of 6 freeholders or by not less than 3 commissioners, and such amount, together with the expense of proceedings, shall be paid by the person or persons to be benefited.

HISTORY: See Const. 1850, XVIII, 14.

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Regents of university; power of eminent domain.

Sec. 4.The regents of the university of Michigan shall have power to take private property for the use of the university, in the manner prescribed by law.

HISTORY: New Section.

Municipality; eminent domain for boulevards, streets and alleys.

Sec. 5.In exercising the powers of eminent domain and in taking the fee of land and property that is needed for the acquiring, opening and widening of boulevards, streets and alleys, municipalities shall not be limited to the acquisition of the land to be covered by the proposed improvement, but may take such other land and property adjacent to the proposed improvement as may be appropriate to secure the greatest degree of public advantage from such improvement. After so much of the land and property has been appropriated for any such needed public purpose, the remainder may be sold or leased with or without such restrictions as may be appropriate to the improvement made. Bonds may be issued to supply the funds to pay in whole or in part for the property so appropriated, but such bonds shall be a lien only on the property so acquired and they shall not be included in any limitation of the bonded indebtedness of such municipality.

HISTORY: Added section. Am. proposed J. R. 4, 1927, p. 972; ratified November, 1928, election.

ARTICLE XIV.

EXEMPTIONS.

Personal property exemptions.

Sec. 1.The personal property of every resident of this state, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than 500 dollars from sale on execution or other final process of any court.

HISTORY: See Const. 1850, XVI, 1.

Homestead exemptions.

Sec. 2.Every homestead of not exceeding 40 acres of land and the dwelling house thereon and the appurtenances to be selected by the owner thereof and not included in any town plat, city or village; or instead thereof, at the option of the owner, any lot in any city, village or recorded town plat, or such parts of lots as shall be equal thereto, and the dwelling house thereon and its appurtenances, owned and occupied by any resident of the state, not exceeding in value $2,500.00 shall be exempt from forced sale on execution or any other final process from a court. Such exemption shall not extend to any mortgage thereon lawfully obtained, but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of his wife to the same: Provided, That, notwithstanding anything in this section to the contrary, such mortgage or other alienation of such land shall be valid without the signature of said wife, after 25 years unless within said 25 years from the date of the recording thereof in the office of the register of deeds of the county or counties wherein the property is located, there is filed in said office notice of claim of the invalidity of such mortgage or alienation under this section, excepting that in case of every mortgage or alienation recorded prior to January 1, 1920, said notice of claim may be filed prior to January 1, 1950.

HISTORY: Am. proposed J. R. 2, 1943 p. 470; ratified April, 1943, election. See Const. 1850, XVI, 2.

Same; effect of death of owner.

Sec. 3.The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debts in all cases during the minority of his children.

HISTORY: See Const. 1850, XVI, 3.

Same; death without surviving children.

Sec. 4.If the owner of a homestead die, leaving a widow but no children, such homestead shall be exempt, and the rents and profits thereof shall accrue to her benefit dur-

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ing the time of her widowhood, unless she be the owner of a homestead in her own right.

HISTORY: See Const. 1850, XVI, 4.

ARTICLE XV.

MILITIA.

Militia; membership.

Sec. 1.The militia shall be composed of all able-bodied male citizens between the ages of 18 and 45 years, except such as are exempted by the laws of the United States or of this state; but all such citizens of any religious denomination, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom upon such conditions as shall be prescribed by law.

HISTORY: See Const. 1850, XVII, 1.

Same; organization.

Sec. 2.The legislature shall provide by law for organizing, equipping and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

HISTORY: See Const. 1850, XVII, 2.

Same; officers.

Sec. 3.Officers of the militia shall be elected or appointed and be commissioned in such manner as may be prescribed by law.

HISTORY: See Const. 1850, XVII, 3.

ARTICLE XVI.

MISCELLANEOUS PROVISIONS.

Terms of public officers; commencement.

Sec. 1.The terms of office of all elective state officers and of all judges of courts of record shall begin on the first day of January next succeeding their election, except as otherwise prescribed in this constitution. The terms of office of all county officers shall begin on the first day of January next succeeding their election, except as otherwise prescribed by law.

HISTORY: See Const. 1850, Schedule 24, 28.

Oath of office.

Sec. 2.Members of the legislature and all officers, executive and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of . . . . . according to the best of my ability." No other oath, declaration or test shall be required as a qualification for any office or public trust.

HISTORY: See Const. 1850, XVIII, 1.

Extra compensation; increase or decrease of salaries.

Sec. 3.Neither the legislature nor any municipal authority shall grant or authorize extra compensation to any public officer, agent, employe or contractor after the service has been rendered or the contract entered into. Salaries of public officers, except circuit judges, shall not be increased, nor shall the salary of any public officer be decreased, after election or appointment.

HISTORY: See Const. 1850, IV, 21, and Sec. 20 of the Schedule.

Tie vote.

Sec. 4.In all cases of tie vote or contested election for any state office, except a

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member of the legislature, any recount or other determination thereof may be conducted by the board of state canvassers under such laws as the legislature may prescribe.

HISTORY: Am. proposed J. R. 1, 1935, p. 467; ratified April, 1935, election. See Const. 1850, VIII, 5.

Vacancies in office; continuity of government in emergencies.

Sec. 5.The legislature may provide by law the cases in which any office shall be deemed vacant and the manner of filling vacancies, where no provision is made in this constitution.

The legislature, in addition to and not in derogation of the power heretofore conferred in section 5 of this article XVI, in order to insure continuity of state and local governmental operations in periods of emergency only resulting from disasters occurring in this state caused by enemy attack on the United States shall have the power to such extent as the legislature deems advisable (1) to provide by legislative enactment for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt by legislative enactment such other legislation as may be necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this amendment elections shall always be called as soon as possible to fill any elective vacancies in any office temporarily occupied by operation of any legislation enacted pursuant to the provisions of this paragraph.

HISTORY: Am. proposed J. R. 1, 1959, p. 481, ratified April, 1959 election. See Const. 1850, IV, 37.

Laws, records, and proceedings; use of English language.

Sec. 6.The laws, public records and the written judicial and legislative proceedings of the state shall be conducted, promulgated and preserved in the English language.

HISTORY: See Const. 1850, XVIII, 6.

Courts of conciliation.

Sec. 7.The legislature may establish courts of conciliation with such powers and duties as shall be prescribed by law.

HISTORY: See Const. 1850, VI, 23.

Estates of married women.

Sec. 8.The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

HISTORY: See Const. 1850, XVI, 5.

Aliens; property rights.

Sec. 9.Aliens, who are or who may hereafter become bona fide residents of this state, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens.

HISTORY: See Const. 1850, XVIII, 13.

Agricultural land leases.

Sec. 10.No lease or grant of agricultural land for agricultural purposes for a longer period than 12 years, reserving any rent or service of any kind, shall be valid.

HISTORY: See Const. 1850, XVIII, 12.

Liquor control; excise tax.

Sec. 11.The legislature may by law establish a liquor control commission, who, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof; and the legislature may also

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provide for an excise tax on such sales: Providing, however, that neither the legislature nor such commission may authorize the manufacture or sale of alcoholic beverages in any county in which the electors thereof, by a majority vote, shall prohibit the same.

HISTORY: Added section. Am. proposed by initiative petition; ratified November, 1916, election; Am. proposed by initiative petition; ratified at November, 1932, election.

Section 11 as originally added prohibited the manufacture, sale, keeping for sale, giving away, bartering or furnishing of any vinous, malt, brewed, fermented, spirituous or intoxicating liquors, except for medicinal, mechanical, chemical, scientific or sacramental purpose.

ARTICLE XVII.

AMENDMENT AND REVISION.

Amendment to constitution; proposal by legislature; submission to electors.

Sec. 1.Any amendment or amendments to this constitution may be proposed in the senate or house of representatives. If the same shall be agreed to by ⅔ of the members elected to each house, such amendment or amendments shall be entered on the journals, respectively, with the yeas and nays taken thereon; and the same shall be submitted to the electors at the next spring or autumn election thereafter, as the legislature shall direct; and, if a majority of electors qualified to vote for members of the legislature voting thereon shall ratify and approve such amendment or amendments, the same shall become part of the constitution.

HISTORY: See Const. 1850, XX, 1.

Same; initiative; referendum.

Sec. 2.Amendments may also be proposed to this constitution by petition of the qualified and registered electors of this state. Every such petition shall include the full text of the amendment so proposed, and be signed by qualified and registered electors of the state equal in number to not less than ten per cent of the total vote cast for all candidates for governor at the last preceding general election, at which a governor was elected. Petitions of qualified and registered electors proposing an amendment to this constitution shall be filed with the secretary of state or such other person or persons hereafter authorized by law to receive same at least 4 months before the election at which such proposed amendment is to be voted upon. The legislature may prescribe penalties for causing or aiding and abetting in causing any fictitious or forged name to be affixed to any petition, or for knowingly causing petitions bearing fictitious or forged names to be circulated. Upon receipt of said petition the secretary of state or other person or persons hereafter authorized by law shall canvass the same to ascertain if such petition has been signed by the requisite number of qualified and registered electors, and may in determining the validity thereof, cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated, for properly determining the authenticity of such signatures. If the secretary of state or other person or persons hereafter authorized by law to receive and canvass same determines the petition is legal and in proper form and has been signed by the required number of qualified and registered electors, the proposed amendment shall be submitted to the electors at the next regular election at which any state officer is to be elected. An official declaration of the sufficiency or insufficiency of the petition shall be made by the secretary of state or such other person or persons as shall hereafter be authorized at least 2 months prior to such election. Any constitutional amendment initiated by the people as herein provided, shall take effect and become a part of the constitution if the same shall be approved by the number of qualified electors required in section 1 hereof for the approval of amendments proposed by the legislature, and not otherwise. Every amendment shall take effect 30 days after the election at which it is approved. The secretary of state or such other person or persons as may be hereafter authorized by law shall submit all proposed amendments to the constitution initiated by the people for adoption or rejection in compliance herewith. The petition shall consist of sheets in such form and having

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printed or written at the top thereof such heading as shall be designated or prescribed by the secretary of state, or such other person or persons hereafter authorized by law to receive, canvass and check the same. Such petition shall be signed by qualified and registered electors in person only with the residence address of such persons, showing street names and also residence numbers in cities and villages having street numbers, and the date of signing the same. To each of such petitions, which may consist of 1 or more sheets, shall be attached the affidavit of the qualified and registered elector circulating the same, who shall be required to identify himself by affixing his address below his signature, stating that each signature thereto was signed in the presence of such qualified and registered elector and is the genuine signature of the person signing the same, and that to the best knowledge and belief of the affiant each person signing the petition was at the time of signing a qualified and registered elector.

HISTORY: Am. proposed C. R. 3, 1913, p. 780; ratified April, 1913 election; Am. proposed J. R. 1, 1941, p. 781, ratified April, 1941, election.

Same; publication; posting; ballots.

Sec. 3.All proposed amendments to the constitution and other questions to be submitted to the electors shall be published in full, with any existing provisions of the constitution which would be altered or abrogated thereby, and a copy thereof shall be posted in each polling place. The purpose of any such proposed amendment or question shall be designated on the ballots for submission to the electors in not more than 100 words, exclusive of caption. Such designation and caption shall be prepared by the secretary of state or by such other authority as shall be hereafter designated by law within ten days after the filing of any proposal and shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against such proposal.

HISTORY: Am. proposed J. R. 7, 1917, p. 934; ratified November, 1918, election. New Section. Am. proposed J. R. 1, 1941, p. 782, ratified April, 1941, election.

General revision; convention; procedure.

Sec. 4.At the biennial spring election to held in the year 1961, in each sixteenth year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature. In case a majority of the electors voting on the question shall decide in favor of a convention for such purpose, at an election to be held not later than 4 months after the proposal shall have been certified as approved, the electors of each house of representatives district as then organized shall elect 1 delegate for each state representative to which the district is entitled and the electors of each senatorial district as then organized shall elect 1 delegate for each state senator to which the district is entitled. The delegates so elected shall convene at the capital city on the first Tuesday in October next succeeding such election, and shall continue their sessions until the business of the convention shall be completed. A majority of the delegates elected shall constitute a quorum for the transaction of business. The convention shall choose its own officers, determine the rules of its proceedings and judge of the qualifications, elections and returns of its members. In case of a vacancy by death, resignation or otherwise, of any delegate, such vacancy shall be filled by appointment by the governor of a qualified resident of the same district. The convention shall have power to appoint such officers, employees and assistants as it may deem necessary and to fix their compensation, and to provide for the printing and distribution of its documents, journals and proceedings, Each delegate shall receive for his services the sum of 1,000 dollars and the same mileage as shall then be payable to members of the legislature, but such compensation may be increased by law. No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to

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the convention, the yeas and nays being entered on the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner provided by such convention on the first Monday in April following the final adjournment of the convention; but, in case an interval of at least 90 days shall not intervene between such final adjournment and the date of such election, then it shall be submitted at the next general election. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon such constitution or amendments shall take effect on the first day of January following the approval thereof.

HISTORY: Am. proposed by initiative petition, ratified November, 1980 election.

SCHEDULE.

That no inconvenience may arise from the changes in the constitution of this state, and in order to carry the same into complete operation, it is hereby declared that:

Common law; existing statutes.

Sec. 1.The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are altered or repealed.

HISTORY: See Const. 1850, Schedule Sec. 1.

Continuance of public and private rights; jurisdiction of courts.

Sec. 2.All writs, actions, causes of action, prosecutions and rights of individuals, and of bodies corporate, and of the state, and all charters of incorporation which shall not have been heretofore forfeited or become subject to forfeiture shall continue; and all complaints, informations or indictments which shall have been made, filed or found or which may hereafter be made, filed or found for any crime or offense committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts shall continue with the same powers and jurisdiction, both at law, and in equity, as heretofore, until otherwise provided by law.

HISTORY: See Const. 1850, Schedule Sec. 2.

Moneys or property due the state or municipal corporation.

Sec. 3.All fines, taxes, penalties, forfeitures and escheats, accruing to the state or any municipal corporation under the existing constitution and laws, shall accrue to the use of the state or such municipal corporation under this constitution.

HISTORY: See Const. 1850, schedule Sec. 3.

Recognizances, bonds and obligations; crimes.

Sec. 4.All recognizances, bonds, obligations and all other instruments entered into or executed before the adoption of this constitution to the people of this state, or to any municipal corporation, or to any public officer or public body, or which may be entered into or executed under existing laws to the people of this state or to any such officer or public body shall remain binding and valid, and rights and liabilities upon the same shall continue and may be prosecuted as provided by law. And all crimes and misdemeanors and penal actions shall be prosecuted, tried and punished as though no change had taken place, until otherwise provided by law.

HISTORY: See Const. 1850, Schedule Sec. 4.

Officers, continuance in office.

Sec. 5.All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superseded under the laws now in force or under this constitution.

HISTORY: See Const. 1850, Schedule Sec. 6.

Same; time of taking office.

Sec. 6.All officers elected under the existing constitution and laws on the Tuesday

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after the first Monday of November, 1908, shall take office on and after the first day of January, 1909, under this constitution.

HISTORY: See Const. 1850, Schedule Sec. 8.

Same; salaries.

Sec. 7. Until otherwise provided, the salaries or compensation of all public officers shall continue as provided under the existing constitution and laws.

HISTORY: See Const. 1850, Schedule Sec. 20.

Attorney general; report to legislature.

Sec. 8. The attorney general of the state shall prepare and report to the legislature at the commencement of the next session such changes in existing laws as may be deemed necessary to adapt the same to this constitution.

HISTORY: See Const. 1850, Schedule Sec. 14.

Representation of certain territory.

Sec. 9. Any territory attached or that may be attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming a part of such county, so far as regards elections for the purpose of representation.

HISTORY: See Const. 1850, Schedule Sec. 15.

Submission of constitution; duty of secretary of state.

Sec. 10. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1908. It shall be the duty of the secretary of state to forthwith give notice of such submission to the sheriffs of the several counties, and it shall also be the duty of the secretary of state and all other officers required to give or publish any notice in regard to said election, to give notice as provided by law in case of an election for governor, that this constitution will be duly submitted to the electors at said election.

HISTORY: See Const. 1850, Schedule Sec. 16.

Same; qualifications of voters; ballots; effective date.

Sec. 11. Every person entitled to vote for members of the legislature under the existing constitution and laws may vote on said adoption or rejection, and the board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office the words "Adoption of the Revised Constitution [ ] Yes." "Adoption of the Revised Constitution [ ] No." All votes cast at said election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. Should the revised constitution so submitted receive more votes in its favor than shall be cast against it, it shall be the supreme law of the state on and after the first day of January, 1909, except as herein otherwise provided; otherwise it shall be rejected.

HISTORY: See Const. 1850, Schedule Secs. 17, 18, and 19.

Adopted by the Constitutional Convention of 1907 at the capitol at Lansing on the twenty-first day of February, 1908.

Paul H. King,
Secretary.

JOHN J. CARTON,
President.

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CONSTITUTION
OF THE
STATE OF MICHIGAN
OF 1963

CHAPTER 1. THE FUNDAMENTAL LAW

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30 Franchises and licenses, duration.
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32 Budgets, public hearing.
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1 Encouragement of education.
2 Free public elementary and secondary schools; discrimination.
3 State board of education; duties.
Superintendent of public instruction; appointment, powers, duties.
State board of education; members, nomination, election, term.
Boards of institutions of higher education, limitation.
4 Higher education institutions; appropriations, accounting, public sessions of boards.
5 University of Michigan, Michigan State University, Wayne State University; controlling boards.

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4 Officers elected in spring of 1963, term.
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Sec.
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12 Initial allocation of departments by law or executive order.
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PREAMBLE

Preamble.

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE 1

Declaration of Rights

Political power.

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

HISTORY: See Const. 1908, II, 1.

Equal protection; discrimination.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

HISTORY: New Section.

Assembly, consultation, instruction, petition.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

HISTORY: See Const. 1908, II, 2.

Freedom of worship and religious belief; appropriations.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

HISTORY: See Const. 1908, II, 3.

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Freedom of speech and of press.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

HISTORY: See Const. 1908, II, 4.

Bearing of arms.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

HISTORY: See Const. 1908, II, 5.

Military power subordinate to civil power.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

HISTORY: See Const. 1908, II, 6.

Quartering of soldiers.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

HISTORY: See Const. 1908, II, 7.

Slavery and involuntary servitude.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

HISTORY: See Const. 1908, II, 8.

Attainder; ex post facto laws; impairment of contracts.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

HISTORY: See Const. 1908, II, 9.

Searches and seizures.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

HISTORY: See Const. 1908, II, 10. Invalid provision, see p. 50.

Habeas corpus.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

HISTORY: See Const. 1908, II, 11.

Conduct of suits in person or by counsel.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit, either in his own proper person or by an attorney.

HISTORY: See Const. 1908, II, 12.

Jury trials.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

HISTORY: See Const. 1908, II, 13.

Double jeopardy; bailable offenses.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy.

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All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

HISTORY: See Const. 1908, II, 14.

Bail; fines; punishments; detention of witnesses.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

HISTORY: See Const. 1908, II, 15.

Self-incrimination; due process of law; fair treatment at investigations.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

HISTORY: See Const. 1908, II, 16.

Witnesses; competency, religious beliefs.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

HISTORY: See Const. 1908, II, 17.

Libels, truth as defense.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

HISTORY: See Const. 1908, II, 18.

Accused, rights in criminal prosecutions.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

HISTORY: See Const. 1908, II, 19.

Imprisonment for debt.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

HISTORY: See Const. 1908, II, 20.

Treason; definition, evidence.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

HISTORY: See Const. 1908, II, 21.

Enumeration of rights not to deny others.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

HISTORY: New Section.

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ARTICLE 2

Elections

Qualifications of electors; residence.

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

HISTORY: See Const. 1908, III, 1-3.

Mental incompetence; imprisonment.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

HISTORY: New Section.

Presidential electors; residence.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

HISTORY: New Section.

Place and manner of elections.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

HISTORY: See Const, III, 1, 8.

Time of elections.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

HISTORY: New Section.

Voters on tax limit increases or bond issues.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

HISTORY: See Const. 1908, III, 4.

Boards of canvassers.

Sec. 7. A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible

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to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

HISTORY: See Const. 1908, III, 9.

Recalls.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

HISTORY: See Const. 1908, III, 8.

Initiative and referendum; limitations; appropriations; petitions.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight precent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

Referendum, approval.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Initiative; duty of legislature, referendum.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

Legislative rejection of initiated measure; different measure; submission to people.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Initiative or referendum law; effective date, veto, amendment and repeal.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this

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section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

Legislative implementation.

The legislature shall implement the provisions of this section.

HISTORY: See Const. 1908, V, 1.

ARTICLE 3

General Government

Seat of government.

Sec. 1. The seat of government shall be at Lansing.

HISTORY: See Const. 1908, I, 2.

Separation of powers of government.

Sec. 2. The powers of government are divided into three branches; legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

HISTORY: See Const. 1908, IV, 1, 2.

Great seal.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

HISTORY: See Const. 1908, VI, 11, 12.

Militia.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

HISTORY: See Const. 1908, XV, 1-3.

Intergovernmental agreements; service by public officers and employees.

Sec. 5. Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

HISTORY: New Section.

Internal improvements.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

HISTORY: See Const. 1908, X, 14.

Common law and statutes, continuance.

Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

HISTORY: See Const. 1908, Schedule Sec. 1.

Opinions on constitutionality by supreme court.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the con-

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stitutionality of legislation after it has been enacted into law but before its effective date.

HISTORY: New Section.

ARTICLE 4
Legislative Branch

Legislative power.

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

HISTORY: See Const. 1908, V, 1.

Senators, number, term.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

Senatorial districts, apportionment factors.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned apportionment factors equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

Apportionment rules.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senators shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 per cent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

HISTORY: See Const. 1908, V, 2.

Representatives, number, term; contiguity of districts.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

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Representative areas, single and multiple county.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

Apportionment of representatives to areas.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Districting of single county area entitled to 2 or more representatives.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Districting of multiple county representative areas.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population, adhering to county lines.

HISTORY: See Const. 1908, V, 3.

Annexation or merger with a city.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

HISTORY: New Section.

Island areas, contiguity.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

HISTORY: New Section.

Commission on legislative apportionment.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight electors, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third po-

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litical party. One resident of each of the following four regions shall be selected by each political party organization: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.

Eligibility to membership.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

Appointment, term, vacancies.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

Officers, rules of procedure, compensation, appropriation.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Call to convene; apportionment; public hearings.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Apportionment plan, publication; record of proceedings.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

Disagreement of commission; submission of plans to supreme court.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Jurisdiction of supreme court on elector's application.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct

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the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

HISTORY: New Section.

Legislators; qualifications, removal from district.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

HISTORY: See Const. 1908, V, 5.

Ineligibility of government officers and employees.

Sec. 8. No person holding any office, employment or position under the United States or this state or a political subdivision thereof, except notaries public and members of the armed forces reserve, may be a member of either house of the legislature.

HISTORY: See Const. 1908, V, 6.

Civil appointments, ineligibility of legislators.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

HISTORY: See Const. 1908, V, 7.

Legislators and state officers, government contracts, conflict of interest.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

HISTORY: See Const. 1908, V, 7, 25.

Legislators, privileges.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

HISTORY: See Const. 1908, V, 8.

State officers compensation commission.

Sec. 12. The state officers compensation commission is created which shall determine the salaries and expense allowances of the members of the legislature, the governor, the lieutenant governor and the justices of the supreme court. The commission shall consist of 7 members appointed by the governor. The commission shall determine the salaries and expense allowances of the members of the legislature, the governor, the lieutenant governor and the justices of the supreme court which determinations shall be the salaries and expense allowances unless the legislature by concurrent resolution adopted by 2/3 of the members elected to and serving in each house of the legislature reject them. The commission shall meet each 2 years for no more than 15 session days. The legislature shall implement this section by law.

HISTORY: Am. H.J.R. No. AAA, 1968 p. 710; ratified at special election of Aug. 6, 1968. See Const. 1908, V, 9.

Legislature; time of convening, sine die adjournment, measures carried over.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular ses-

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sion held in an odd numbered year shall carry over with the same status to the next regular session.

HISTORY: See Const. 1908, V, 13.

Quorums; powers of less than quorum.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

HISTORY: See Const. 1908, V, 14.

Legislative council.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

HISTORY: New Section.

Legislature; officers, rules of procedure, expulsion of members.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

HISTORY: See Const. 1908, V, 15.

Committees; record of votes, public inspection, notice of hearings.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. On all actions on bills and resolutions in each committee, names and votes of members shall be recorded. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

HISTORY: New Section.

Journal of proceedings; record of votes, dissents.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

HISTORY: See Const. 1908, V, 16.

Record of votes on elections and advice and consent.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

HISTORY: See Const. 1908, V, 17.

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Open meetings.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

HISTORY: See Const. 1908, V, 18.

Adjournments, limitations.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

HISTORY: See Const. 1908, V, 18.

Bills.

Sec. 22. All legislation shall be by bill and may originate in either house.

HISTORY: See Const. 1908, V, 19.

Style of laws.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

HISTORY: See Const. 1908, V, 20.

Laws; object, title, amendments changing purpose.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

HISTORY: See Const. 1908, V, 21, 22.

Revision and amendment of laws; title references, publication of entire sections.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

HISTORY: See Const. 1908, V, 21.

Bills; printing, possession, reading, vote on passage.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

HISTORY: See Const. 1908, V, 22, 23.

Laws, effective date.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

HISTORY: See Const. 1908, V, 21.

Bills, subjects at special session.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

HISTORY: See Const. 1908, V, 22.

Local or special acts.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts

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shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

HISTORY: See Const. 1908, V, 30.

Appropriations; local or private purposes.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

HISTORY: See Const. 1908, V, 24.

General appropriation bills; priority, statement of estimated revenue.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statment of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

HISTORY: New Section.

Laws imposing taxes.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

HISTORY: See Const. 1908, X, 6.

Bills passed; approval by governor or veto, reconsideration by legislature.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

HISTORY: See Const. 1908, V, 36.

Bills, referendum.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

HISTORY: See Const. 1908, V, 38.

Publication and distribution of laws and judicial decisions.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be pro-

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vided by law. All laws and judicial decisions shall be free for publication by any person.

HISTORY: See Const. 1908, V, 39.

General revision of laws; compilation of laws.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

HISTORY: See Const. 1908, V, 40.

Administrative rules, suspension by legislative committee.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.

HISTORY: New Section.

Vacancies in office.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

HISTORY: See Const. 1908, XVI, 5.

Continuity of government in emergencies.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

HISTORY: See Const. 1908, XVI, 5.

Liquor control commission; liquor tax; local option.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

HISTORY: See Const. 1908, XVI, 11.

Lotteries.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

HISTORY: See Const. 1908, V, 33.

Ports and port districts; incorporation, internal.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

HISTORY: See Const. 1908, VIII, 30.

Bank and trust company laws.

Sec. 43. No general law providing for the incorporation of trust companies or corpo-

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rations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

HISTORY: See Const. 1908, XII, 9.

Trial by jury in civil cases.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

HISTORY: See Const. 1908, V, 27.

Indeterminate sentences.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

HISTORY: See Const. 1908, V, 28.

Death penalty.

Sec. 46. No law shall be enacted providing for the penalty of death.

HISTORY: New Section.

Chaplains in state institutions.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

HISTORY: See Const. 1908, V, 26.

Disputes concerning public employees.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

HISTORY: See Const. 1908, XVI, 7.

Hours and conditions of employment.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

HISTORY: See Const. 1908, V, 29.

Atomic and new forms of energy.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

HISTORY: New Section.

Public health and general welfare.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

HISTORY: New Section.

Natural resources; conservation, pollution, impairment, destruction.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

HISTORY: New Section.

Auditor general; appointment, qualifications, term, removal, post audits.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following

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the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

Independent investigations; reports.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Governing boards of institutions of higher education.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

Staff members, civil service.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

HISTORY: New Section.

ARTICLE 5

Executive Branch

Executive power.

Sec. 1. The executive power is vested in the governor.

HISTORY: See Const. 1908, VI, 2.

Principal departments.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Organization of executive branch; assignment of functions; submission to legislature.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

HISTORY: New Section.

Single heads of departments; appointment, term.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal

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departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

Boards heading departments; appointment, term, removal.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Boards and commissions, maximum term.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

HISTORY: New Section.

Commissions or agencies for less than 2 years.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

HISTORY: New Section.

Examining or licensing board members, qualifications.

Sec. 5. A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.

HISTORY: New Section.

Advice and consent to appointments.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

HISTORY: New Section.

Vacancies in office; filling, senatorial disapproval of appointees.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

HISTORY: See Const. 1908, VI, 10.

Principal departments, supervision of governor; information from state officers.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

Court enforcement of constitutional or legislative mandate.

The governor may initiate court proceedings in the name of the state to enforce

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compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

HISTORY: See Const. 1908, VI, 3.

Principal departments, location.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

HISTORY: See Const. 1908, VI, 1.

Removal or suspension of officers; grounds, report.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

HISTORY: See Const. 1908, IX, 7.

Provisional appointments to fill vacancies due to suspension.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

HISTORY: See Const. 1908, IX, 5.

Military powers.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

HISTORY: See Const. 1908, VI, 4.

Elections to fill vacancies in legislature.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

HISTORY: See Const. 1908, VI, 6.

Reprieves, commutations and pardons.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

HISTORY: See Const. 1908, VI, 9.

Extra sessions of legislature.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

HISTORY: See Const. 1908, VI, 7.

Legislature other than at seat of government.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

HISTORY: See Const. 1908, VI, 8.

Messages and recommendations to legislature.

Sec. 17. The governor shall communicate by message to the legislature at the begin-

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ning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

HISTORY: See Const. 1908, VI, 5.

Budget; general and deficiency appropriation bills.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

HISTORY: New Section.

Disapproval of items in appropriation bills.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

HISTORY: See Const. 1908, V, 37.

Reductions in expenditures.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

HISTORY: New Section.

State elective executive officers; term, election.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

Lieutenant governor, secretary of state and attorney general, nomination.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Secretary of state and attorney general, vacancies in office.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

HISTORY: See Const. 1908, VI, 1.

Governor and lieutenant governor, qualifications.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

HISTORY: See Const. 1908, VI, 13.

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State elective executive officers, compensation.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

HISTORY: See Const. 1908, VI, 21.

Executive residence.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

HISTORY: New Section.

Lieutenant governor; president of senate, tie vote, duties.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote, unless they be equally divided. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

HISTORY: See Const. 1908, VI, 19.

Succession to governorship.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

Death of governor-elect.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

Duration of successor's term as governor.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of the governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

Determination of inability.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

HISTORY: See Const. 1908, VI, 16, 17.

Salary of successor.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

HISTORY: See Const. 1908, VI, 18.

State highway commission.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

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Members; number, term.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year, as provided by law.

State highway director.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

HISTORY: New Section.

Civil rights commission; members, term, duties, appropriation.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

Rules and regulations; hearings, orders.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

HISTORY: New Section.

ARTICLE 6

Judicial Branch

Judicial power in court of justice; divisions.

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

HISTORY: See Const. 1908, VII, 1.

Justices of the supreme court; number, term, nomination, election.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than two terms of office shall expire at the same time. Nominations for justices of the supreme

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court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

HISTORY: See Const. 1908, VII, 2.

Chief justice; court administrator; other assistants.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

HISTORY: New Section.

General superintending control over courts; writs; appellate jurisdiction.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

HISTORY: See Const. 1908, VII, 4.

Court rules; distinctions between law and equity; master in chancery.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

HISTORY: See Const. 1908, VII, 5.

Decisions and dissents; writing, contents.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

HISTORY: See Const. 1908, VII, 7.

Staff; budget; salaries of justices; fees.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

HISTORY: See Const. 1908, VII, 6.

Court of appeals; election of judges, divisions.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The supreme court may prescribe by rule that the court of appeals sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

HISTORY: New Section.

Judges of court of appeals, terms.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each

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district shall be arranged by law to provide that not all terms will expire at the same time.

HISTORY: New Section.

Jurisdiction, practice and procedure of court of appeals.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

HISTORY: New Section.

Circuit courts; judicial circuits, sessions, number of judges.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

HISTORY: See Const. 1908, VII, 8.

Circuit judges; nomination, election, term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

HISTORY: See Const. 1908, VII, 9.

Circuit courts; jurisdiction, writs, supervisory control over inferior courts.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

HISTORY: See Const. 1908, VII, 10.

County clerks; duties, vacancies; prosecuting attorneys, vacancies.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

HISTORY: See Const. 1908, VII, 11.

Probate courts; districts, jurisdiction.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental

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salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

HISTORY: See Const. 1908, VII, 13.

Probate judges; nomination, election, terms.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

HISTORY: See Const. 1908, VII, 14.

Judicial salaries and fees.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

HISTORY: New Section.

Salaries; uniformity, changes during term.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Circuit judges, additional salary from county.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

HISTORY: See Const. 1908, VII, 12; XVI, 3.

Courts of record; seal, qualifications of judges.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

HISTORY: See Const. 1908, VII, 17.

Removal of domicile of judge.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected or appointed, he shall have vacated his office.

HISTORY: Am. H.J.R. No. F, 1968, p. 711; ratified at special election of Aug. 6, 1968. See Const. 1908, VII, 19.

Ineligibility for other office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

HISTORY: See Const. 1908, VII, 9.

Incumbent judges, affidavit of candidacy.

Sec. 22. Any judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

HISTORY: Am. H.J.R. No. F, 1968, p. 711; ratified at special election of Aug. 6, 1968.

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Judicial vacancies, filling; appointee, term; successor; new offices.

Sec. 23. A vacancy shall occur in the office of judge of any court of record or in the district court by death, removal, resignation or vacating of the office, and such vacancy shall be filled by appointment by the governor. The person appointed by the governor shall hold office until 12 noon of the first day of January next succeeding the first general election held after the vacancy occurs, at which election a successor shall be elected for the remainder of the unexpired term. Whenever a new office of judge in a court of record, or the district court, is created by law, it shall be filled by election as provided by law. The supreme court may authorize persons who have been elected and served as judges to perform judicial duties for limited periods or specific assignments.

HISTORY: Am. H.J.R. No. F, 1968, p. 711; ratified at special election of Aug. 6, 1968. See Const. 1908, VII, 20.

Incumbent judges, ballot designation.

Sec. 24. There shall be printed upon the ballot under the name of each incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

HISTORY: Am. H.J.R. No. F, 1968, p. 711; ratified at special election of Aug. 6, 1968. See Const. 1908, VII, 23.

Removal of judges from office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

HISTORY: See Const. 1908, IX, 6.

Circuit court commissioners and justices of the peace, abolition; courts of limited jurisdiction.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this article.

Present statutory courts.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

HISTORY: New Section.

Power of appointment to public office.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

HISTORY: See Const. 1908, VII, 11.

Administrative action, review.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material

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and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

Property tax valuation or allocation; review.

In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.

HISTORY: New Section.

Conservators of the peace.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

HISTORY: See Const. 1908, VII, 18.

Judicial tenure commission; selection; terms; duties; power of supreme court.

Sec. 30. (1) A judicial tenure commission is established consisting of nine persons selected for three-year terms as follows: Four members shall be judges elected by the judges of the courts in which they serve; one shall be a court of appeals judge, one a circuit judge, one a probate judge and one a judge of a court of limited jurisdiction. Three shall be members of the state bar who shall be elected by the members of the state bar of whom one shall be a judge and two shall not be judges. Two shall be appointed by the governor; the members appointed by the governor shall not be judges, retired judges or members of the state bar. Terms shall be staggered as provided by rule of the supreme court. Vacancies shall be filled by the appointing power.

(2) On recommendation of the judicial tenure commission, the supreme court may censure, suspend with or without salary, retire or remove a judge for conviction of a felony, physical or mental disability which prevents the performance of judicial duties, misconduct in office, persistent failure to perform his duties, habitual intemperance or conduct that is clearly prejudicial to the administration of justice. The supreme court shall make rules implementing this section and providing for confidentiality and privilege of proceedings.

HISTORY: Add. H.J.R. no. PP, 1968, p. 710; ratified at special election of Aug. 6, 1968.

ARTICLE 7

Local Government

Counties; corporate character, powers and immunities.

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

HISTORY: See Const. 1908, VIII, 1.

County charters.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

Election of charter commissions.

The board of supervisors by a majority vote of its members may, and upon petition

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of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

Approval of electors.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

HISTORY: New Section.

Reduction of size of county.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

HISTORY: See Const. 1908, VIII, 2.

County officers; terms, combination.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

HISTORY: See Const. 1908, VIII, 3.

Offices at county seat.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

HISTORY: See Const. 1908, VIII, 4.

Sheriffs; security, responsibility for acts, ineligibility for other office.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

HISTORY: See Const. 1908, VIII, 5.

Boards of supervisors; members.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

HISTORY: See Const. 1908, VIII, 7. Invalidity, see p. 50.

Legislative, administrative, and other powers and duties of boards.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

HISTORY: See Const. 1908, VIII, 8.

Compensation of county officers.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

HISTORY: See Const. 1908, VIII, 9.

Removal of county seat.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

HISTORY: See Const. 1908, VIII, 13.

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Indebtedness, limitation.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

HISTORY: See Const. 1908, VIII, 12.

Navigable streams, permission to bridge or dam.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

HISTORY: See Const. 1908, VIII, 14.

Consolidation of counties, approval by electors.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

HISTORY: New Section.

Organization and consolidation of townships.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

HISTORY: See Const. 1908, VIII, 15.

County intervention in public utility service and rate proceedings.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

HISTORY: New Section.

Highways, bridges, culverts, airports; road tax limitation.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

HISTORY: See Const. 1908, VIII, 26.

Townships; corporate character, powers and immunities.

Sec. 17. Each orgaized township shall be a body corporate with powers and immunities provided by law.

HISTORY: See Const. 1908, VIII, 16.

Township officers; term, powers and duties.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

HISTORY: See Const. 1908, VIII, 18.

Township public utility franchises.

Sec. 19. No organized township shall grant any public utility franchise which is not

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subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

HISTORY: See Const. 1908, VIII, 19.

Townships, dissolution; villages as cities.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

HISTORY: New Section.

Cities and villages; incorporation, taxes, indebtedness.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

HISTORY: See Const. 1908, VIII, 20.

Charters, resolutions, ordinances; enumeration of powers.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

HISTORY: See Const. 1908, VIII, 21.

Parks, boulevards, cemeteries, hospitals.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

HISTORY: See Const. 1908, VIII, 22.

Public service facilities.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Services outside corporate limits.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

HISTORY: See Const. 1908, VIII, 23.

Public utilities; acquisition, franchises, sale.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by

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three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

HISTORY: See Const. 1908, VIII, 25.

Cities and villages, loan of credit.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

HISTORY: New Section.

Metropolitan governments and authorities.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multipurpose functions rather than a single function.

HISTORY: See Const. 1908, VIII, 31.

Governmental functions and powers; joint administration, costs and credits, transfers.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Officers, eligibility.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

HISTORY: New Section.

Highways, streets, alleys, public places; control, use by public utilities.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

HISTORY: See Const. 1908, VIII, 28.

Franchises and licenses, duration.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

HISTORY: See Const. 1908, VIII, 29.

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Vacation or alteration of roads, streets, alleys, public places.

Sec. 31. The legislature shall not vacate or alter any road, street, alley or public place under the jurisdiction of any county, township, city or village.

HISTORY: See Const. 1908, VIII, 27.

Budgets, public hearing.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

HISTORY: New Section.

Removal of elected officers.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

HISTORY: See Const. 1908, IX, 8.

Construction of constitution and law concerning counties, townships, cities, villages.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

HISTORY: New Section.

ARTICLE 8

Education

Encouragement of education.

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

HISTORY: See Const. 1908, XI, 1.

Free public elementary and secondary schools; discrimination.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Nonpublic schools, prohibited aid.

No public monies or property shall be appropriated or paid or any public credit utilized, by the legislature or any other political subdivision or agency of the state directly or indirectly to aid or maintain any private, denominational or other nonpublic, pre-elementary, elementary, or secondary school. No payment, credit, tax benefit, exemption or deductions, tuition voucher, subsidy, grant or loan of public monies or property shall be provided, directly or indirectly, to support the attendance of any student or the employment of any person at any such nonpublic school or at any location or institution where instruction is offered in whole or in part to such nonpublic school students. The legislature may provide for the transportation of students to and from any school.

HISTORY: Am. proposed by initiative petition; ratified at general election on Nov. 3, 1970. See Const. 1908, XI, 9. Invalid provision, see p. 50.

State board of education; duties.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public educa-

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tion, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

Superintendent of public instruction; appointment, powers, duties.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

State board of education; members, nomination, election, term.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

Boards of institutions of higher education, limitation.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

HISTORY: See Const. 1908, XI, 2, 6.

Higher education institutions; appropriations, accounting, public sessions of boards.

Sec. 4. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

HISTORY: See Const. 1908, XI, 10.

University of Michigan, Michigan State University, Wayne State University; controlling boards.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

HISTORY: See Const. 1908, XI, 3, 4, 5, 7, 8, 16.

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Other institutions of higher education, controlling boards.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

HISTORY: New Section.

Community and junior colleges; state board, members, terms, vacancies.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

HISTORY: New Section.

Services for handicapped persons.

Sec. 8. Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped shall always be fostered and supported.

HISTORY: See Const. 1908, XI, 15.

Public libraries, fines.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

HISTORY: See Const. 1908, XI, 14.

ARTICLE 9

Finance and Taxation

Taxes for state expenses.

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

HISTORY: See Const. 1908, X, 2.

Power of taxation, relinquishment.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

HISTORY: See Const. 1908, X, 9.

Property taxation; uniformity, assessments, classes.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of

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real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

HISTORY: See Const. 1908, X, 3, 4, 7, 8.

Exemption of religious or educational nonprofit organizations.

Sec. 4. Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

HISTORY: New Section.

Assessment of property of public service businesses.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature, and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

HISTORY: New Section.

15 mill limitation.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

Nonapplication of limitation.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

School districts in 2 or more counties.

In any school district which extends into two or more counties, property taxes at the

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highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

HISTORY: See Const. 1908, X, 21.

Income tax.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

HISTORY: New Section.

Sales tax.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

HISTORY: See Const. 1908, X, 23.

Motor vehicle fuel and other taxes to be used for highway purposes.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

HISTORY: See Const. 1908, X, 22.

Sales tax, distribution to local governments.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

HISTORY: See Const. 1908, X, 23.

State school aid fund, source and distribution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education and school employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

HISTORY: New Section.

Evidence of state indebtedness.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

HISTORY: See Const. 1908, X, 11.

Public bodies, borrowing power.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

HISTORY: New Section.

State borrowing; short term.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

HISTORY: New Section.

Long term borrowing by state.

Sec. 15. The state may borrow money for specific purposes in amounts as may be

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provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

HISTORY: New Section.

State loans to school districts.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

Amount of loans.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

Qualified bonds.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

Repayment of loans, tax levy by school district.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Bonds, state loans, repayment.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

Power to tax unlimited.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

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Rights and obligations to remain unimpaired.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

HISTORY: See Const. 1908, X, 27, 28.

Payments from state treasury.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

HISTORY: See Const. 1908, X, 16.

State credit.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

Investment of public funds.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

HISTORY: See Const. 1908, X, 12.

Stock of corporation, interest of state.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

HISTORY: See Const. 1908, X, 13.

State depositories.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

HISTORY: See Const. 1908, X, 15.

Accounting for public moneys.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

Accounting and auditing for local governments.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

HISTORY: See Const. 1908, X, 18.

Examination and adjustment of claims against state.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

HISTORY: See Const. 1908, VI, 20.

Financial records; statement of revenues and expenditures.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

HISTORY: See Const. 1908, X, 17.

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Public pension plans and retirement systems, obligation.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits, annual funding.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

HISTORY: New Section.

ARTICLE 10

Property

Disabilities of coverture abolished; separate property of wife; dower.

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

HISTORY: See Const. 1908, XVI, 8.

Eminent domain; compensation.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.

HISTORY: See Const. 1908, XIII, 1-5.

Homestead and personalty, exemption from process.

Sec. 3. A homestead in the amount of not less than $3,500 and personal property of every resident of this state in the amount of not less than $750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

HISTORY: See Const. 1908, XIV, 1-4.

Escheats.

Sec. 4.Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

HISTORY: New Section. See Const. 1908, VI, 20.

State lands.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other dispostion of such lands.

State land reserve.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

HISTORY: New Section.

Resident aliens, property rights.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

HISTORY: See Const. 1908, XVI, 9.

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ARTICLE 11

Public Officers and Employment

Oath of public officers.

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

HISTORY: See Const. 1908, XVI, 2.

Terms of office of state and county officers.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

HISTORY: See Const. 1908, XVI, 1.

Extra compensation.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

HISTORY: See Const. 1908, XVI, 3.

Custodian of public moneys; eligibility to office, accounting.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

HISTORY: See Const. 1908, X, 19.

State civil service; exemptions.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

Civil service commission; members, terms.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

State personnel director.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

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Commission's duties as to classification, compensation, examinations, personnel transactions and conditions of employment.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

Certification of appointments or promotions; discrimination.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases or decreases in compensation.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

Creation or abolition of positions.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of adminstrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

Compensation for unclassified service, recommendations.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

Appropriations; return of unexpended moneys.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

Reports and audits of expenditures.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

Payments for personal service; judicial remedies.

No payment for personal services shall be made or authorized until the provisions of

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this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

HISTORY: See Const. 1908, VI, 22.

Merit systems for local governments.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

HISTORY: New Section.

Impeachment of civil officers.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected thereto and serving therein shall be necessary to direct an impeachment.

Prosecution by 3 members of house of representatives.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Trial by senate; oath, presiding officer.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

Conviction; vote, penalty.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

Judicial officers, functions after impeachment.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

HISTORY: See Const. 1908, IX, 1-4.

ARTICLE 12

Amendment and Revision

Amendment by legislative proposal and vote of electors.

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

HISTORY: See Const. 1908, XVII, 1.

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Amendment by petition and vote of electors.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Submission of proposal; publication.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

Ballot, statement of purpose.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

Approval of proposal, effective date; conflicting amendments.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

HISTORY: See Const. 1908, XVII, 2, 3.

General revision of constitution; submission of question, convention delegates and meeting.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

Convention officers, rules, membership, personnel, publications.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in

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the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

Submission of proposed constitution or amendment.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

HISTORY: See Const. 1908, XVII, 4.

SCHEDULE AND TEMPORARY PROVISIONS

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Recommendations by attorney general for changes in laws.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

HISTORY: See Const. 1908, Schedule Sec. 8.

Existing public and private rights, continuance.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

HISTORY: See Const. 1908, Schedule Sec. 2.

Officers, continuance in office.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

Terms of office.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

HISTORY: See Const. 1908, Schedule Sec. 5.

Officers elected in spring of 1963, term.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were

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elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

HISTORY: New Section. See Const. 1908, Schedule Sec. 6.

State elective executive officers and senators, 2 and 4 year terms.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general and state senators shall be elected at the general election in 1964 to serve for two-year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

HISTORY: New Section.

Supreme court, reduction to 7 justices.

Sec. 6. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

HISTORY: New Section.

Judges of probate, eligibility for re-election.

Sec. 7. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

HISTORY: New Section.

Judicial officers, staggered terms.

Sec. 8. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

HISTORY: New Section.

State board of education; first election, terms.

Sec. 9. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

Abolition of existing state board of education.

The state board of education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

HISTORY: New Section.

Boards controlling higher education institutions and state board of public community and junior colleges, terms.

Sec. 10. The provisions of this constitution providing for members of boards of control of institutions of higher education and the state board of public community and junior colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years.

HISTORY: New Section.

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Michigan State University trustees and Wayne State University governors, terms.

Sec. 11. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

HISTORY: New Section.

Initial allocation of departments by law or executive order.

Sec. 12. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

HISTORY: New Section.

State contracts, continuance.

Sec. 13. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

Korean service bonus bonds, appropriation.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

HISTORY: New Section.

Mackinac Bridge Authority; refunding of bonds, transfer of functions to highway department.

Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

HISTORY: New Section.

Submission of constitution; time, notice.

Sec. 15. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the first Monday in April, 1963. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

HISTORY: See Const. 1908, Schedule Sec. 10.

Voters, ballots, effective date.

Sec. 16. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor

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than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

HISTORY: New Section. See Const. 1908, Schedule Sec. 11.

Adopted by the Constitutional Convention of nineteen hundred sixty-one at Constitution Hall in Lansing on the first day of August, nineteen hundred sixty-two.

Stephen S. Nisbet, *President*
Fred I. Chase, *Secretary*

The vote on the Constitution of 1963, as certified by the Board of State Canvassers on June 20, 1963, was 810,860 to 803,436 in favor of adoption.

INVALID CONSTITUTIONAL PROVISIONS

Art. 1, § 11.

Last sentence of section was held invalid as in conflict with Fourth Amendment to United States Constitution. Lucas V. People of State of Michigan (C.A. Mich. 1970) 420 F.2d 259; Caver V. Kropp (D.C. Mich. 1969) 306 F. Supp. 1329; People V. Pennington (1970) 383 Mich. 611, 178 N.W. 2d 460; People V. Andrews (1970) 21 Mich. App. 731, 176 N.W. 2d 460.

Art. 7, § 7.

Section was held invalid and declared unconstitutional under United States Constitution as interpreted in Avery V. Midland County, Texas (1968) 390 U.S. 474, 88 S.Ct. 1114, 20 L. Ed. 45. Advisory Opinion re Constitutionality of P.A. 1966, No. 261 (1968) 380 Mich. 736. 158 N.W. 2d 497; In re Apportionment of Ontonagon County Board of Supervisors (1967) 11 Mich. App. 348, 157 N.W. 2d 698.

Art. 8, § 2.

Portion of second sentence of second paragraph of section 2, prohibiting use of public money to support attendance of any student or employment of any person at any location or institution where instruction is offered in whole or in part to nonpublic students was held unconstitutional, void and unenforceable because it contravened free exercise of religion guaranteed by United States Constitution and was violative of equal protection of laws provisions of United States Constitution. Traverse City School District V. Attorney General (1971) 384 Mich. 390, 185 N.W. 2d 9.

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CHAPTER 2. STATE

STATE AREA

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2.2 Area of state; figures for official state publications.

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Act 78, 1945, p. 78; Eff. Sep. 6.

AN ACT to declare the area of the state of Michigan.

The People of the State of Michigan enact:

2.1 Area of state; basis.

Sec. 1. The total area of the state of Michigan is hereby declared to be 96,720 square miles consisting of 57,022 square miles of land and 39,698 square miles of inland water as based upon the boundaries of the state of Michigan according to article I, section 1 of the constitution of the state of Michigan of 1909, and United States statutes at large, volume 5, page 49, chapter 99, approved June 15, 1836.

HISTORY: CL 1948, 2.1.

2.2 Area of state; figures for official state publications.

Sec. 2. All official publications of the state of Michigan issued after the passage of this act, in which the total area, total land area or total water area of Michigan are stated shall use the figures set forth in section 1.

HISTORY: CL 1948, 2.2.

J.R. 10, 1897, p. 429; Imd. Eff. Apr. 28.

A JOINT RESOLUTION to designate and adopt a state flower.

2.11 State flower.

WHEREAS, A refined sentiment seems to call for the adoption of a state flower; and

WHEREAS, Our blossoming apple trees add much to the beauty of our landscape, and Michigan apples have gained a worldwide reputation; and

WHEREAS, At least one of the most fragrant and beautiful flowered species of apple, the pyrus coronaria, is native to our state; therefore

Resolved by the Senate and House of Representatives of the State of Michigan, That the apple blossom be and the same hereby is designated and adopted as the state flower of the state of Michigan.

HISTORY: CL 1897, 1755;—CL 1915, 1096;—CL 1929, 133;—CL 1948, 2.11.

Act 58, 1965, p. 90; Eff. Mar. 31, 1966.

AN ACT to designate the trout as the state fish for the state of Michigan.

The People of the State of Michigan enact:

2.15 State fish.

Sec. 1. The trout is hereby designated as the official fish of the state of Michigan.

HISTORY: New 1965, p. 90, Act 58, Eff. Mar. 31, 1966.

Act 89, 1965, p. 124; Eff. Mar. 31, 1966.

AN ACT to adopt the Petoskey stone as the state stone for the state of Michigan.

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The People of the State of Michigan enact:

2.16 State stone.

Sec. 1. The Petoskey stone is hereby adopted as the official stone of the state of Michigan.

HISTORY: New 1965, p. 124, Act 89, Eff. Mar. 31, 1966.

Act 209, 1911, p. 362; Eff. Aug. 1.

AN ACT to adopt and prescribe the design of a state coat-of-arms and state flag, and their use, and to prohibit the use of the same for advertising purposes, and to provide a punishment for such forbidden use.

The People of the State of Michigan enact:

2.21 State coat-of-arms; adoption.

Sec. 1. The device and inscriptions of the great seal of the state of Michigan, Anno Domini 1835, presented by Lewis Cass to the forthcoming state, through the constitutional convention and adopted June 2, 1835, and filed with the secretary of the territory, June 24, 1835, and illustrated by a seal with said device and inscriptions attached to a state document, bearing date 1838, and to the constitution of 1850 received and filed in the office of the secretary of state, August 15, 1850, and now on file in said office, omitting the legend "The great seal of the state of Michigan, Anno Domini 1835," is hereby adopted as the coat-of-arms of the state.

HISTORY: CL 1915, 1098;—CL 1929, 134;—CL 1948, 2.21.

2.22 State coat-of-arms; emblazonment.

Sec. 2. The coat-of-arms shall be blazoned as follows:

Chief, Azure, motto argent Tuebor;

Charge, Azure, sun-rayed rising sinister proper, lake wavey proper, peninsula dexter grassy proper, man dexter on peninsula, rustic, habited, dexter arm-raised, dexter turned, sinister arm with gun stock resting, all proper;

Crest, On a wreath azure and or, an American eagle rising to the dexter, tips of wings partly lowered to base, all proper, dexter talon holding an olive branch with 13 fruit, sinister talon holding a sheaf of 3 arrows, all proper. Over his head a sky azure environed with a scroll gules with the motto "E Pluribus Unum" argent;

Supporters;

Dexter, An elk rampant, proper;

Sinister, A moose rampant, proper;

Mottoes, On the scroll unending superior narrow argent, in sable, the motto, "Si quaeris peninsulam, amoenam."

On the scroll unending inferior, broader argent in sable the motto "circumspice."

Observations:

Scroll support and conventional leaf design between shield and scroll superior or;

Escutcheon supporters rest on the scroll supports and leaf design.

HISTORY: CL 1915, 1099;—CL 1929, 135;—CL 1948, 2.22.

2.23 State flag.

Sec. 3. The state flag shall be blue charged with the arms of the state.

HISTORY: CL 1915, 1100;—CL 1929, 136;—CL 1948, 2.23.

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2.24 Governor's flag.

Sec. 4. The governor's flag shall be white charged with the arms of the state.

HISTORY: CL 1915, 1101;—CL 1929, 137;—CL 1948, 2.24.

2.25 State coat-of-arms; where hung.

Sec. 5. The device of the arms of the state corresponding to the blazon hereinbefore given shall be painted on some suitable background and hung upon the walls of the executive chamber, the office of the secretary of state, the supreme court room, the senate chamber and hall of the house of representatives.

HISTORY: CL 1915, 1102;—CL 1929, 138;—CL 1948, 2.25.

2.26 State coat-of-arms; use on official letterheads and documents.

Sec. 6. No pictorial device other than the arms of the state shall be used in the public offices at the capitol for letter headings and envelopes used for official business. Persons printing and circulating public documents under the authority of the state, when they use a vignette, shall place upon the title pages of the documents the device of the state arms herein prescribed without alterations or additions.

HISTORY: CL 1915, 1103;—CL 1929, 139;—CL 1948, 2.26.

2.27 United States flag, state flag; display, expense payment.

Sec. 7. The flag of the United States and the state flag bearing the arms of the state, shall be displayed upon the capitol building during the daily sessions of the legislature and of the supreme court, and on public occasions. The board of state auditors shall see that the flags are so displayed and that the necessary flag staffs shall be placed and flags supplied. The expense thereof shall be allowed by them and paid by the state treasurer upon proper warrant.

HISTORY: CL 1915, 1104;—CL 1929, 140;—CL 1948, 2.27.

NOTE: See also Compilers' §§ 750.244-750.247.

Sec. 8.

HISTORY: CL 1915, 1105;—CL 1929, 141;—Rep. 1931, p. 748, Act 328, Eff. Sept. 18.

This section was a penalty section, and superseded by sections 244-247, Act 328, 1931, being Compilers' §§ 750.244-750.247.

Act 7, 1955, p. 5; Eff. Oct. 14.

AN ACT to adopt the white pine (Pinus strobus, L.) as the official state tree for the state of Michigan.

The People of the State of Michigan enact:

2.31 State tree.

Sec. 1. The white pine (Pinus strobus, L.) is hereby adopted as the official state tree for the state of Michigan.

HISTORY: New 1955, p. 5, Act 7, Eff. Oct. 14.

Act 19, 1963 (2nd Ex. Ses.), p. 26; Eff. Jan. 1, 1964.

AN ACT to provide a great seal for the state of Michigan; to provide for its location and use; and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

2.41 Great seal; as official seal.

Sec. 1. The state of Michigan shall have a great seal which shall be the official seal of the state.

HISTORY: New 1963, 2nd Ex. Ses., p. 26, Act 19, Eff. Jan. 1, 1964.

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2.42 Great seal; description.

Sec. 2. The great seal shall be comprised of the coat of arms of the state around which shall appear the words "great seal of the state of Michigan, A.D. MDCCCXXXV".

HISTORY: New 1963, 2nd Ex. Sess., p. 26, Act 19, Eff. Jan. 1, 1964.

2.43 Great seal; official dies.

Sec. 3. The official dies of the great seal shall not be transported outside the state but shall remain at the seat of government at the office of the secretary of state.

HISTORY: New 1963, 2nd Ex. Sess., p. 26, Act 19, Eff. Jan. 1, 1964.

2.44 Great seal; impression on certain documents.

Sec. 4. An impression of the great seal shall be placed on the following documents but no others:

(a) Extraditions.

(b) Warrants issued under extradition proceedings.

(c) Pardons.

(d) Commutations of sentences.

(e) Appointments by the governor to public office.

(f) Railroad police commissions.

(g) Notary public commissions.

(h) Governor's proclamations including those calling extraordinary sessions of the legislature.

(i) Land patents.

(j) Farm centennial certificates issued where land has been in the family for 100 years or more.

(k) Military commissions issued under authority of the adjutant general.

(l) Certifications of the holding of office by the administrative board members, county clerks and notaries public.

(m) Certifications of the qualifications of elected and appointed officials.

(n) Trademark registration certificates.

(o) Copies of records and documents required by law to be filed with or maintained by the secretary of state for the purpose of authenticating their genuiness [sic].

HISTORY: New 1963, 2nd Ex. Sess., p. 26, Act 19, Eff. Jan. 1, 1964.

2.45 Great seal; facsimiles and reproductions.

Sec. 5. No facsimile or reproduction of the great seal shall be used in a manner unconnected with official functions of the state.

HISTORY: New 1963, 2nd Ex. Sess., p. 26, Act 19, Eff. Jan. 1, 1964.

2.46 Great seal violations; penalty.

Sec. 6. Any person who violates any provision of this act shall be guilty of a misdemeanor.

HISTORY: New 1963, 2nd Ex. Sess., p. 26, Act 19, Eff. Jan. 1, 1964.

2.47 Great seal act; effective date.

Sec. 7. This act shall take effect on January 1, 1964.

HISTORY: New 1963, 2nd Ex. Sess., p. 26, Act 19, Eff. Jan. 1, 1964.

Act 204, 1958, p. 261; Eff. Sep. 13.

AN ACT to fix the compensation and mileage of constitutional convention delegates.

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The People of the State of Michigan enact:

2.51 Constitutional convention delegates; compensation for services.

Sec. 1. Each seated delegate to a convention for revising the constitution of Michigan shall receive for his services the sum of $500.00 semi-monthly, commencing on the day the delegate is seated and continuing to the final adjournment of the convention or until a vacancy in his seat if a vacancy should sooner occur. No delegate shall receive more than $7,500.00, and each seated delegate shall be entitled to at least $1,000.00 as the constitution provides.

HISTORY: New 1958, p. 261, Act 204, Eff. Sep. 13.

2.52 Constitutional convention delegates; mileage allowance.

Sec. 2. Each seated delegate shall receive 10 cents per mile and no more for 1 round trip per month between his place of residence and the state capitol each month during which the constitutional convention is in session.

HISTORY: New 1958, p. 261, Act 204, Eff. Sep. 13.

2.53 Constitutional convention delegates; payment of compensation and mileage allowance.

Sec. 3. The compensation for services shall be paid semi-monthly, and the mileage shall be paid monthly, by the state treasurer upon warrants of the auditor general prepared from vouchers submitted by the secretary of the convention, out of appropriations made for the expenses of the convention, in accordance with the accounting laws of the state.

HISTORY: New 1958, p. 261, Act 204, Eff. Sep. 13.

2.54 Constitutional convention delegates; compensation and mileage allowance for president.

Sec. 4. The president of the convention shall receive the same compensation and mileage as is paid to other delegates, and no more.

HISTORY: New 1958, p. 261, Act 204, Eff. Sep. 13.

Act 106, 1945, p. 107; Imd. Eff. Apr. 19.

AN ACT to provide for advertising and promoting the advantages of the state of Michigan; to create the Michigan tourist council, and to prescribe its powers and duties; to provide for the allocation and disbursement of appropriations in carrying out the provisions of this act; and to repeal all acts and parts of acts inconsistent herewith.

The People of the State of Michigan enact:

2.101 Advertisement and promotion of state resort and recreation facilities.

Sec. 1. The object of this act is to advertise and promote the resort and recreational advantages of the state of Michigan to residents and non-residents, in newspapers, magazines, booklets, leaflets, periodicals and billboards, and in such other manner as shall be deemed most advantageous to accomplish the object herein expressed.

HISTORY: CL 1948, 2.101.

CITED IN OTHER SECTIONS: Sections 2.101 to 2.108 are cited in § 16.360.

2.102 Michigan tourist council; members, terms, vacancies, compensation, expenses, officers.

Sec. 2. There is hereby created a council to be known as the Michigan tourist council, which shall consist of 9 members: The secretary-managers of the 4 regional tourist associations now known as the upper Michigan tourist association, the west Michigan tourist association, the east Michigan tourist association, and the southeastern Michi-

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gan tourist association; and 5 members to be appointed by the governor, with the advice and consent of the senate, from nominations made by the 4 above-named tourist associations, for terms of 5 years each. Vacancies in the appointed membership shall be filled by the governor, with the advice and consent of the senate, for the unexpired term from nominations made by the 4 above-named tourist associations. The members of the council shall serve without compensation but shall be entitled to necessary travel and other expenses incurred in the performance of official duties not to exceed 15 days in any fiscal year. The council shall elect from its membership annually a chairman, a vice-chairman and a secretary.

HISTORY: CL 1948, 2.102;—Am. 1956, p. 181, Act 94, Eff. Aug. 11;—Am. 1960, p. 6, Act 5, Imd. Eff. Mar. 17;—Am. 1961, p. 33, Act 32, Imd. Eff. May 18;—Am. 1962, p. 43, Act 52, Eff. Mar. 28, 1963.

2.103 Tourist council; powers, duties, expenditures.

Sec. 3. The Michigan tourist council is hereby authorized, and it shall be its duty, to advertise the resort and recreational advantages of the state of Michigan, and to promote the development of the tourist industry of the state of Michigan. The council shall authorize the expenditure of all funds necessary to carry out the provisions of this act, and shall be authorized to incur necessary expenses, in accordance with the accounting laws of the state.

HISTORY: CL 1948, 2.103;—Am. 1956, p. 181, Act 94, Eff. Aug. 11.

2.104 Tourist council; reports to governor and legislature; contents.

Sec. 4. The Michigan tourist council shall make detailed reports to the governor and the legislature of its activities indicating the scope of its operation and showing its receipts and disbursements.

HISTORY: CL 1948, 2.104.

2.105 Tourist council; biennial estimates of necessary funds.

Sec. 5. The Michigan tourist council shall submit to the legislature an estimate of funds necessary to carry on its activities for each ensuing biennium, and the legislature shall appropriate such an amount as it shall deem necessary for the purpose of carrying out the object and purposes of this act.

HISTORY: CL 1948, 2.105.

2.106 Amounts available to regional associations.

Sec. 6. Out of the appropriation made by the legislature an amount not to exceed $40,000.00 shall be made available annually by the Michigan tourist council to each of the following regional associations: The upper Michigan tourist association, the west Michigan tourist association, the east Michigan tourist association and the southeastern Michigan tourist association. On presentation of receipted vouchers showing the amount of money paid out by it for advertising the advantages of its region of the state, together with detailed information showing the various purposes for which the money was spent, payment shall be authorized in accordance with the accounting laws of the state to the association of 80% of the amount shown by such receipted vouchers. None of the funds in this section made available to the 4 regional associations shall be used to compensate any officers or employees of the association for salaries or expenses.

HISTORY: CL 1948, 2.106;—Am. 1956, p. 181, Act 94, Eff. Aug. 11;—Am. 1960, p. 6, Act 5, Imd. Eff. Mar. 17;—Am. 1961, p. 33, Act 32, Imd. Eff. May 18;—Am. 1962, p. 43, Act 52 Eff. Mar. 28, 1963;—Am. 1964, p. 131, Act 137, Imd. Eff. May 16;—Am. 1965, p. 377, Act 216, Imd. Eff. Jul. 16.

2.107 Reversion of unencumbered balances.

Sec. 7. All unencumbered balances of appropriations made by the legislature to carry out the provisions of this act shall revert to the general fund of the state at the end of each biennium.

HISTORY: CL 1948, 2.107.

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2.108 Cooperation with agricultural marketing council.

Sec. 8. The Michigan tourist council shall, whenever to the advantage of the state of Michigan, cooperate with the Michigan agricultural marketing council for the purposes herein provided.

HISTORY: CL 1948, 2.108.

Sec. 9. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Act 48, 1966, p. 71; Imd. Eff. Jun. 2.

AN ACT to establish a state council for the arts; and to define the council's powers and duties.

The People of the State of Michigan enact:

2.121 State council for the arts; members, status of council.

Sec. 1. The state council for the arts is created to consist of 15 members broadly representative of all fields of the performing and creative arts to be appointed by the governor with the advice and consent of the senate. The council shall exist as an autonomous unit within the department of administration, except for budgeting, procurement and related management functions.

HISTORY: New 1966, p. 71, Act 48, Imd. Eff. Jun. 2.

2.122 Council; terms of office, chairman, vice-chairman, vacancies, expenses.

Sec. 2. The term of office of each member shall be 4 years, except of the members first appointed 4 shall be appointed for terms of 1 year, 4 for 2 years, 4 for 3 years and 3 for 4 years. The governor shall designate a chairman and a vice-chairman from the members of the council to serve as such at the pleasure of the governor. The chairman shall be the chief executive officer of the council. All vacancies shall be filled for the balance of the unexpired term in the same manner as original appointments. The members of the council shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

HISTORY: New 1966, p. 71, Act 48, Imd. Eff. Jun. 2.

2.123 Council; executive director; appointment, duties.

Sec. 3. The chairman shall appoint an executive director whose duties and responsibilities shall be prescribed by the council.

HISTORY: New 1966, p. 72, Act 48, Imd. Eff. Jun. 2.

2.124 Council; duties.

Sec. 4. The council shall:

(1) Stimulate and encourage throughout the state the study and presentation of the performing and creative arts.

(2) Make such surveys as may be deemed advisable of public and private institutions engaged within the state in artistic and cultural activities, including but not limited to educational institutions, music, theater, dance, visual arts, literature and letters, architecture and architectural landscaping, museums, and allied arts and crafts and define and effectuate appropriate programs to implement the aforementioned activities.

(3) Take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and expand the state's cultural resources.

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(4) Encourage a freedom of artistic expression essential for the well-being of the arts.

HISTORY: New 1966, p. 72, Act 48, Imd. Eff. Jun. 2.

2.125 Council; powers; assistance from other state agencies.

Sec. 5. The council may hold public and private hearings, enter into contracts with individuals, organizations and institutions for services furthering the cultural objectives of the council's programs; enter into contracts with local and regional associations for cooperative endeavors furthering the cultural objectives of the council's programs; accept gifts, contributions and bequests of unrestricted funds from individuals, foundations, corporations and other organizations or institutions for the purpose of furthering the cultural objectives of the council's programs; make and sign any agreements and do and perform any acts that may be necessary to carry out the purposes of this act. The council may receive from any department, division, board, bureau, commission or agency of the state such assistance and data as to enable it properly to carry out its powers and duties hereunder.

HISTORY: New 1966, p. 72, Act 48, Imd. Eff. Jun. 2.

2.126 Council; national endowment for arts act funds.

Sec. 6. The council is the official agency of this state to receive and disburse funds made available by the national endowment for the arts act.

HISTORY: New 1966, p. 72, Act 48, Imd. Eff. Jun. 2.

2.127 Council; annual report to governor and legislature.

Sec. 7. The council shall make an annual report to the governor and the legislature not later than March 15 in each year, commencing in 1967.

HISTORY: New 1966, p. 72, Act 48, Imd. Eff. Jun. 2.

2.151-2.159 Repealed. 1963, p. 292, Act 205, Eff. Sep. 6.

Sections related to advertising and improving practices of marketing agricultural products.

Act 267, 1947, p. 408; Eff. Oct. 11.

AN ACT defining the boundaries between Minnesota, Michigan and Wisconsin, adopting an interstate compact in relation thereto and directing the governor to execute and witness the compact in the name of the state, and to appropriate moneys therefor.

The People of the State of Michigan enact:

2.201 Minnesota, Wisconsin, and Michigan interstate boundary compact; boundaries.

Sec. 1. The following compact is hereby ratified and approved:

A COMPACT

Entered into by and between the state of Minnesota, the state of Wisconsin and the state of Michigan, state signatories hereto.

The contracting states solemnly agree:

That the boundary between the state of Michigan and the state of Wisconsin in the center of lake Michigan be and it hereby is finally fixed and established as the line marked A-B-C-D-E-F-G on the map, which line is more particularly described as follows:

Starting at Point A, a point equidistant from either shore on the line which is the eastward continuation of the boundary line between Wisconsin and Illinois or latitude 42° 29′ 37 ″north;

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Thence to Point B, a point equidistant from either shore on the line drawn through the Port Washington fog signal and storm signal and the White lake storm signal, on a true azimuth of 354° 12′ 00″, a distance of 61.55 statute miles;

Thence to Point C, a point equidistant from either shore on a line drawn through the Sheboygan coast guard storm signal, fog signal, radio beacon and Little Sable Point light, on a true azimuth of 03° 01′ 15″, a distance of 22.18 statute miles;

Thence to Point D, a point equidistant from either shore on a line drawn through the Twin River Point light and fog signal and Big Sable fog and light signal, on a true azimuth of 10° 04′ 30″, a distance of 30.33 statute miles;

Thence to Point E, a point equidistant from either shore on a line from Bailey's Harbor inland light and Point Betsie fog signal, radio beacon, and distance finding station, on a true azimuth of 17° 09′ 55″, a distance of 54.20 statute miles;

Thence to Point F, a point equidistant from either shore on a line drawn through the Pilot Island light and fog signal and Sleeping Bear Point light, on a true azimuth of 33° 29′ 10″, a distance of 17.24 statute miles;

Thence to Point G, the point determined by the United States supreme court decree of March 12, 1936, which is a point 45,600 meters from the center of Rock Island passage on a bearing of south 60° east, on a true azimuth of 49° 34′ 10″, a distance of 15.66 statute miles.

The latitude and longitude of the named control points is as follows:

Point A:	Latitude	42°29′37″	Point E:	Latitude	44°52′50″
	Longitude	87°01′15″		Longitude	86°41′10″
Point B:	Latitude	43°22′50″	Point F:	Latitude	45°05′20″
	Longitude	87°08′50″		Longitude	86°29′30″
Point C:	Latitude	43°42′00″	Point G:	Latitude	45°14′10″
	Longitude	87°07′20″		Longitude	86°14′55″
Point D:	Latitude	44°07′55″			
	Longitude	87°00′45″			

HISTORY: CL 1948, 2.201.

2.202 Boundaries in Lake Superior.

Sec. 2. That the western boundary of the state of Michigan in the waters of lake Superior and the eastern boundary in the waters of lake Superior of the states of Minnesota and Wisconsin be and it hereby is finally fixed and established as the line marked M-N on the map, which line is more particularly described as follows:

Starting at Point M, the point where the line through the middle of the main channel of the Montreal river enters lake Superior;

Thence in a direct line to Point N, the point where a line drawn through the most easterly point of Pigeon Point and the most southerly point of Pine Point intersects the international boundary, on a true azimuth of 23° 27′ 24 ″, a distance of 108.86 statute miles.

The latitude and longitude of the named control points is:

Point M:	Latitude	46°34′05″	Point N:	Latitude	48°00′50″
	Longitude	90°25′05″		Longitude	89°29′00″

HISTORY: CL 1948, 2.202.

2.203 Measurements of azimuths.

Sec. 3. All azimuths are measured clockwise from true north.

HISTORY: CL 1948, 2.203.

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2.204 Effective date, ratification.

Sec. 4. That this compact shall become operative immediately upon its ratification by any state as between it and the other state or states so ratifying. Ratification shall be made by act of the legislature of the ratifying state.

HISTORY: CL 1948, 2.204.

2.205 Joint survey commission; surveying and marking, expenses.

Sec. 5. That immediately upon ratification of this compact by all 3 states, each state will appoint 2 members to a joint survey commission to survey and mark the boundaries defined in this compact by establishing and perpetuating monuments at the reference points on shore by means of which the control points of said boundaries are located. The expense of marking the lake Michigan boundary shall be borne jointly by the states of Michigan and Wisconsin; and the expense of marking the boundary line described in section 2 above shall be borne equally by the states of Minnesota, Michigan and Wisconsin. The expense of marking the lake Superior and Superior bay boundary between Minnesota and Wisconsin shall be borne jointly by the states of Minnesota and Wisconsin.

HISTORY: CL 1948, 2.205.

2.206 Maps, duplicates.

Sec. 6. The maps referred to in the above compact are the original maps on file with the report of the representatives of the Michigan, Minnesota and Wisconsin boundary conference in the office of the secretary of state of Wisconsin, duplicates of which original maps shall be filed in the office of the secretary of the state of Michigan by the state geologist.

HISTORY: CL 1948, 2.206.

2.207 Governor to execute final draft and affix seal.

Sec. 7. The governor of Michigan is authorized and directed to witness the ratification of this compact by executing the final draft thereof in his own name and on behalf of the state of Michigan and affixing the seal of the state of Michigan.

HISTORY: CL 1948, 2.207.

2.208 Appropriation.

Sec. 8. There is hereby appropriated from the general fund of the state for the fiscal year ending June 30, 1948 to the governor for the purpose of carrying out the provisions of this act the sum of $2,000.00.

HISTORY: CL 1948, 2.208.

Act 282, 1927, p. 532; Imd. Eff. May 31.

AN ACT to create a commission to act in co-operation with the attorney general and with any like commission or officials of the state of Wisconsin to designate and mark the overland boundary between the states of Wisconsin and Michigan, and to make an appropriation therefor.

The People of the State of Michigan enact:

2.221 Wisconsin - Michigan boundary commission; creation.

Sec. 1. There is hereby created a special commission consisting of 3 members to be appointed by the governor, which commission shall, in co-operation with the attorney

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general of this state and with any similar commission or proper officers of the state of Wisconsin, proceed to designate and mark the overland boundary between the state of Michigan and the state of Wisconsin in accordance with the order and decree of the supreme court of the United States entered November twenty-second, 1926.

HISTORY: CL 1929, 424;—CL 1948, 2.221.

Long acquiescence by one state in the possession of territory by another and in the exercise of sovereignty and dominion over it is conclusive of the latter's title and rightful authority. Michigan v. Wisconsin, 270 U.S. 295, 46 S.Ct. 290. Possession of part of territory under claim to whole and color of title extends state's possession to entire tract in absence of actual adverse possession. Michigan v. Wisconsin, supra.

WISCONSIN-MICHIGAN BOUNDARY COMMISSION: Act 15 of 1919 (Ex. Ses.) as amended by Act 278 of 1921 and Act 30 of 1921 (1st Ex. Ses.) created the Wisconsin-Michigan boundary commission to cooperate with a like commission of Wisconsin to investigate and fully establish a permanent boundary line between the two states

Sec. 2. (This was an appropriation section.)

HISTORY: CL 1929, 425.

Sec. 3. (This was a tax clause section.)

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

J.R. 6, 1917, p. 933; Eff. Aug. 10.

A JOINT RESOLUTION with reference to the re-location and permanent monumenting of the boundary line between Ohio and Michigan.

2.301 Ohio - Michigan boundary line; adoption.

Be it *resolved by the senate and house of representatives of the state of Michigan,* that

Whereas, The eighty-first general assembly of Ohio in house bill 701 passed May twenty-seventh, 1915, and the forty-eighth Legislature of Michigan by Act 84 of Public Acts of 1915, provided for a joint re-location and permanent monumenting of the line between Ohio and Michigan, and

Whereas, This work has been duly executed by the proper officers of both states as evidenced by their report dated July first, 1916, to the governing authorities of both states, therefore be it

Resolved, That the said boundary line as re-located and monumented under authority of the acts above cited be adopted as the true boundary, and that the work of the commissioners and their above mentioned report be adopted as final.

HISTORY: CL 1929, 423;—CL 1948, 2.301.

Senate Concurrent Resolution No. 15, 1945; Eff. Mar. 26.

2.321 Ohio - Michigan boundary line; Lake Erie.

A CONCURRENT RESOLUTION relative to the boundary line between the two states of Ohio and Michigan in Lake Erie.

Whereas, Uncertainty has existed concerning the boundary between the states of Ohio and Michigan in Lake Erie, due to the omission of this portion of the boundary on some maps and its incorrect position on others; and

Whereas, The easterly terminal monument of the Ohio-Michigan land-boundary line set in 1817 by Andrew Harris has disappeared, due to the washing away of North Cape at the place where the monument originally stood; and

Whereas, The earliest United States lake survey charts of the region show that the aforesaid terminal monument was at or near the intersection of the land-line between the two states and a line drawn south forty-five degrees west (S 45° W) through the center of Turtle island which is located at latitude 41° 45′ 08.8″ and longitude 83° 23′ 28.8 ″according to primary triangulation of the United States lake survey published in 1882; and

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Whereas, The center part of the island was preserved by a circular concrete sea wall about 190 feet in diameter by the U.S. lighthouse service, which wall is still standing; now therefore be it

Resolved by the Senate (the House of Representatives concurring), That the boundary line between the states of Ohio and Michigan in Lake Erie shall be a line passing through the center of the aforesaid circular wall and bearing south forty-five degrees west (S 45° W) therefrom until it shall intersect the land-line between the two states as marked and monumented by them in 1915; and that from the aforesaid center of the circular wall the boundary in Lake Erie shall extend north forty-five degrees east (N 45° E) until it shall intersect the international boundary between the United States and Canada, it being understood that all bearings herein referred to shall be measured from a true meridian through the center of the aforesaid circular wall on Turtle island.

HISTORY: CL 1948, 2.321.

House Concurrent Resolution No. 38, 1947; Eff. May 20.

2.341 Ohio - Michigan boundary line; Lake Erie.

A CONCURRENT RESOLUTION relative to the boundary line between the states of Ohio and Michigan in Lake Erie.

Whereas, In the 1945 regular session of the legislature of Michigan adopted Senate Concurrent Resolution No. 15 relative to the boundary line between the two states of Ohio and Michigan in Lake Erie; and

Whereas, Said concurrent resolution was presented to the legislature as a part of a proposal to determine the area of the entire state by inclusion of water areas within the total and without any other significance; and

Whereas, Upon subsequent investigation it became apparent that an area of about 70 square miles in Lake Erie was involved in the matter then presented and some question as to the jurisdiction over said water existed between the state of Ohio and the state of Michigan; and

Whereas, The particular area in question became a matter of dispute because of early surveys and maps purporting to determine the boundary line between the states in Lake Erie and showing for a great many years that the said boundary ran from a terminus in Lake Erie from a non-existent boundary marker, which was formerly Grassy Point, to a turning point in the international boundary line between the United States and Canada, said line being at an angle more acute than 45 degrees; and

Whereas, The state of Ohio, by a concurrent resolution adopted several years ago attempted to resolve the stated uncertainty concerning the boundary line by adopting a point on Turtle Island in Lake Erie as a basis for a line at 45° to intersect the land boundary line between the states and to intersect the International boundary line thereby conforming more closely to the language of the original and enabling acts and the constitutional provisions regarding the boundary line between the two states; and

Whereas, It is apparent that for many years the state of Michigan has exercised jurisdiction over the area in question and may have established by adverse possession and by consent and acquiescence of the state of Ohio a good title thereto; and

Whereas, Since the action of the two legislatures by concurrent resolution is not sufficient in the law governing the relationship of States to convey title or change boundary lines, no settlement of any such dispute can be reached by such method; and

Whereas, If a settlement is to be reached it will, of necessity, require statutory enactment by the two states and should be the subject matter of an investigation by a joint boundary commission; now therefore be it

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Resolved by the House of Representatives (the Senate concurring), That the State of Michigan nor any rights of said state concerning the boundary line in Lake Erie between the state of Ohio and the state of Michigan were not affected by the adoption of Senate Concurrent Resolution No. 15 of the 1945 session of the Michigan legislature; and be it further

Resolved, That insofar as said concurrent resolution No. 15 may in any manner be interpreted as determinative of the position of the state of Michigan with regard to the said boundary in Lake Erie, said concurrent resolution is hereby rescinded; and be it further

Resolved, That the Governor of the state of Michigan is hereby requested to confer with the Governor of the state of Ohio concerning the subject matter hereof with a view to requesting the legislatures to establish a boundary commission to investigate and to report to the legislatures the rights of the respective states within Lake Erie; and be it further

Resolved, That a copy of this concurrent resolution be sent to the Governor of this state.

HISTORY: CL 1948, 2.341.

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CHAPTER 3. FEDERAL AND INTERSTATE RELATIONS

UNITED STATES SENATORS
Act 156 of 1915

3.1-3.4 Repealed.

CONGRESSIONAL APPORTIONMENT
Act 249 of 1963

3.11, 3.12 Repealed.

Act 20 of 1931

3.21 Repealed.

INTERSTATE COOPERATION COMMISSION
Act 232 of 1941

3.31 Senate committee on interstate cooperation.
3.32 House committee on interstate cooperation.
3.33 Governor's committee on interstate cooperation.
3.34 Michigan commission on intergovernmental cooperation; establishment.
3.35 Senate and house council of the American legislators' association.
3.36 Commission on intergovernmental cooperation; function.
3.37 Commission on intergovernmental cooperation; committees, members, qualifications; advisory boards.
3.38 Commission on intergovernmental cooperation; reports, expenses.
3.39 Committees on interstate cooperation, commission on intergovernmental cooperation; informal names.
3.40 Council of state governments declared governmental agency.
3.41 Michigan highway reciprocity board authority unaffected.

CONGRESSIONAL APPORTIONMENT
Act 282 of 1964

3.51 Apportionment of congressional districts.
3.52 Repeal.

GREAT LAKES TIDEWATER COMMISSION
Act 138 of 1921

3.101-3.106 Repealed.

PURCHASE OF RIFLES AND SHOTGUNS
Act 207 of 1969

3.111 Rifles and shotguns; purchases by nonresidents.
3.112 Rifles and shotguns; purchases by nonresidents.

HIGHWAY RECIPROCITY BOARD
Act 185 of 1937

3.151-3.154 Repealed.

Act 124 of 1960

3.161 Michigan highway reciprocity board; definitions.
3.162 Creation, composition.
3.163 Authority to make reciprocal agreements and compacts.
3.164 Compacts and agreements; conditions, contents, requirements.
3.165 Jurisdiction for registration and licensing of vehicles.
3.166 Registration or licensing of vehicle operated from a domicile in other jurisdiction.
3.167 Fleet vehicles; apportionment of fees.
3.168 Reciprocity on exemptions and privileges.
3.169 Vehicles excepted from exemptions.
3.170 Owners and operations excepted from exemptions.
3.171 Limited agreements for partial reciprocity.
3.172 Resident-owned, foreign-domiciled vehicles.
3.173 Denial or withdrawal of privileges and exemptions.
3.174 Rules and regulations; lists or vehicles, reciprocity plate display.
3.175 Highway reciprocity board officers and investigators; peace officers.
3.176 Public service commission; rules for vehicles in foreign commerce.
3.177 Repeal.

U.S. LAND TAX CANCELLATION
Act 322 of 1941

3.181 Repealed.

U.S. LAND ACQUISITION
Act 3 of 1942 (1st Ex. Ses.)

3.201 Ceding of jurisdiction to federal government; consent.
3.202 Ceding of jurisdiction; limitations, termination.
3.203 Ceding of jurisdiction; transfer upon acquisition of title.

U.S. TAX LIEU PAYMENTS
Act 318 of 1941

3.221 Federal payments in lieu of taxes, definition.
3.222 Contracts between United States and state political subdivisions; authorization.
3.223 Agreements on division of payment among political subdivisions.
3.224 County treasurers' duties.
3.225 Distribution of payments; acceptance and refusal.
3.226 Direct United States political subdivision contract; authorization.
3.227 Basis for determination of amount of payment.
3.228 Depositing funds received by political subdivisions.
3.229 Duty of political subdivision to furnish services.

U.S. SITES FOR AIDS TO NAVIGATION
Act 4 of 1874

3.301 Ceding of jurisdiction of state land to federal government; application, conveyance, limitations.

U.S. CUSTOM HOUSES, ETC., SITES
Act 5 of 1874

3.321 Purchase or condemnation of lands by the United States.
3.322 Purchase or condemnation of lands by the United States; entry, exclusive legislation, concurrent jurisdiction, tax exemption.

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U.S. POSTOFFICES, ETC., SITES

Act 52 of 1871

3.341 Ceding of jurisdiction to federal government; filing of plats; concurrent jurisdiction; execution of process.

3.342 Ceding of jurisdiction to federal government; tax exemption on lands.

ST. CLAIR LIGHTHOUSE SITE

Act 5 of 1935

3.361 Lighthouse on St. Clair flats; surrender, boundaries, consideration.

3.362 Lighthouse on St. Clair flats; appropriation.

3.363 Lighthouse on St. Clair flats; rights of lessees null and void.

3.364 Lighthouse on St. Clair flats; conveyance of lands to federal government; reversion.

3.365 Lighthouse on St. Clair flats; consideration credited to general fund.

U.S. BIOLOGICAL SURVEY LANDS

Act 187 of 1937

3.381 Conveyance of state lands to be used by United States biological survey; description.

3.382 United States biological survey lands; ceding of jurisdiction to federal government, concurrent jurisdiction.

NATIONAL AND STATE FORESTS

Act 312 of 1923

3.401 Forest lands; acquisition by United States, concurrent jurisdiction.

3.401a Forest lands; agreements with federal agencies, administration as state forests, proceeds, distribution, title, state reimbursement.

3.402 Forest lands; federal legislation for rules and regulations.

WEATHER STATION OBSERVATORY

Act 98 of 1925

3.421 Weather station observatory; conveyance of land to federal government.

ISLE ROYALE NATIONAL PARK

Act 8 of 1939

3.441 Isle Royale national park; ceding of jurisdiction, state rights saved.

PICTURED ROCKS NATIONAL LAKESHORE

Act 168 of 1967

3.451 Pictured Rocks national lakeshore, conveyance to United States; approval by conservation commission.

3.452 Pictured Rocks national lakeshore; reversion to state.

3.453 Pictured Rocks national lakeshore; reservations and exceptions of mining and mineral rights.

3.454 Pictured Rocks national lakeshore; concurrent jurisdiction.

3.455 Pictured Rocks national lakeshore; approval of conveyances.

U.S. ARMY LAND

Act 175 of 1935

3.461 Conveyance of land to United States army use; description.

3.462 Ceding of jurisdiction and concurrent jurisdiction of land conveyed to United States army use.

COAST GUARD LAND

Act 229 of 1935

3.481 Conveyance of land to United States coast guard service use; reversion to state.

3.482 Ceding of jurisdiction and concurrent jurisdiction of land conveyed to United States coast guard service.

LEASING STATE PROPERTY

Act 17 of 1943

3.501 State administrative board; lease of state property to United States armed forces; approval.

3.501a Lease of Lansing city land to naval reserve.

SCHOOL EQUIPMENT, SALE TO U.S.

Act 213 of 1943

3.521 Personal property of school districts; sale to United States.

3.522 Expiration of act.

FEDERAL SURPLUS EQUIPMENT, PURCHASE

Act 12 of 1942 (1st Ex. Ses.)

3.541 Federal grants of funds or property; authority of political subdivisions to accept.

3.542 School milk program; administered under rules of superintendent of public instruction, auditing and accounting.

GREAT LAKES COMPACT

Act 89 of 1954

3.601 Great Lakes compact; cooperation with Ontario and bordering states; agreement authority.

3.602 Compact; ratification.

3.603 Compact; terms, conditions, provisions.

3.604 Compact commission; memberships, oath.

3.605 Compact; effective date; commission meetings, officers, duties, quorum.

3.606 Compact; commission; records of meetings and proceedings, reports.

3.607 Compact commission; expenses.

GREAT LAKES BASIN COMPACT

Act 28 of 1955

3.651 Great Lakes basin compact; ratification, contents.

3.652 Great Lakes commission; members, oath, expenses, voting rights.

3.653 Commission; cooperation by state officers.

3.654 Commission; budget, appropriations.

3.655 Basin compact; transmission of copy of act and compact to other parties.

INTERSTATE COMPACT ON JUVENILES

Act 203 of 1958

3.701 Interstate compact on juveniles; enactment, contents.

3.702 Administration by department of social welfare; compact administrator.

3.703 Administration by department of social welfare; supplemental agreements with Michigan and other states' officials.

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3.704 Probate court jurisdiction; definition; maximum age.

3.705 Department of social welfare payment of chargeable expenses.

3.706 Enforcement of compact.

IONIZING RADIATION

Act 54 of 1965

3.801 Atomic energy; agreements by governor with federal government; ratification.

3.802 Atomic energy; agreements by governor with other states; ratification.

3.1-3.4 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.
Sections related to method of nomination and election of United States senators and filling vacancies in office.

3.11, 3.12 Repealed. 1964, p. 530, Act 282, Eff. Aug. 28.
Section 3.11 related to division of the state into 19 congressional districts. Section 3.12 was a repeal section.

3.21 Repealed. 1963, p. 441, Act 249, Eff. Sep. 6.
Section related to division of the state into 18 congressional districts.

Act 232, 1941, p. 348; Imd. Eff. Jun. 16.

AN ACT to establish a commission and committees to facilitate the cooperation of this state with other units of government, and to prescribe their powers, duties and function.

The People of the State of Michigan enact:

3.31 Senate committee on interstate cooperation.

Sec. 1. There is hereby established a standing committee of the senate of this state, to be officially known as the senate committee on interstate cooperation, and to consist of 5 senators. The members and the chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the senate. In addition to the regular members, the president of the senate shall be ex officio an honorary nonvoting member of this committee.
HISTORY: CL 1948, 3.31.

3.32 House committee on interstate cooperation.

Sec. 2. There is hereby established a similar standing committee of the house of representatives of this state, to be officially known as the house committee on interstate cooperation, and to consist of 5 members of the house of representatives. The members and the chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the house of representatives. In addition to the regular members, the speaker of the house of representatives shall be ex officio an honorary nonvoting member of this committee.
HISTORY: CL 1948, 3.32.

3.33 Governor's committee on interstate cooperation.

Sec. 3. There is hereby established a committee to be officially known as the governor's committee on interstate cooperation, and to consist of 5 members to serve at the pleasure of the governor. The governor shall designate 5 citizens of this state, including 2 or more who are representatives of political subdivisions to be members of the committee. The governor shall appoint 1 of the 5 members of this committee as its chairman. In addition to the regular members, the governor shall be ex officio an honorary nonvoting member of this committee.
HISTORY: CL 1948, 3.33;—Am. 1966, p. 228, Act 204, Eff. Mar. 10, 1967.

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3.34 Michigan commission on intergovernmental cooperation; establishment.

Sec. 4. There is hereby established the Michigan commission on intergovernmental cooperation. This commission shall be composed of 15 regular members, namely:

The 5 members of the senate committee on interstate cooperation,

The 5 members of the house committee on interstate cooperation, and

The 5 members of the governor's committee on interstate cooperation. The governor, the attorney general, the chief justice of the supreme court, the state budget director, the president of the senate and the speaker of the house of representatives shall be ex officio honorary nonvoting members of this commission. The chairman of the commission shall be elected from among the regular members of the commission.

HISTORY: CL 1948, 3.34;—Am. 1966, p. 228, Act 204, Eff. Mar. 10, 1967.

3.35 Senate and house council of the American legislators' association.

Sec. 5. The said standing committee of the senate and the said standing committee of the house of representatives shall function during the regular sessions of the legislature and also during the interim periods between such sessions; their members shall serve until their successors are designated or until the expiration of their respective terms of office; and they shall respectively constitute for this state the senate council and house council of the American legislators' association.

HISTORY: CL 1948, 3.35.

3.36 Commission on intergovernmental cooperation; function.

Sec. 6. It shall be the function of this commission:

(1) To carry forward the participation of this state as a member of the council of state governments;

(2) To encourage and assist the legislative, executive, administrative and judicial officials and employes of this state to develop and maintain friendly contact by correspondence, by conference, and otherwise, with officials and employes of the other states, of the federal government, and of local units of government;

(3) To endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating:

(a) The adoption of compacts,

(b) The enactment of uniform or reciprocal statutes,

(c) The adoption of uniform or reciprocal administrative rules and regulations,

(d) The informal cooperation of governmental offices with 1 another,

(e) The personal cooperation of governmental officials and employes with 1 another, individually,

(f) The interchange and clearance of research and information, and

(g) Any other suitable process.

(4) In short, to do all such acts as will, in the opinion of this commission, enable this state to do its part—or more than its part in forming a more perfect union among the various governments in the United States and in developing the council of state governments for that purpose.

HISTORY: CL 1948, 3.36.

3.37 Commission on intergovernmental cooperation; committees, members, qualifications; advisory boards.

Sec. 7. The commission shall establish such delegations and committees as it deems advisable, in order that they may confer and formulate proposals concerning effective means to secure intergovernmental harmony, and may perform other functions for the commission in obedience to its decisions. Subject to the approval of the commission,

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the member or members of each such delegation or committee shall be appointed by the chairman of the commission. State officials or employes who are not members of the commission on interstate cooperation may be appointed as members of any such delegation or committee, but private citizens holding no governmental position in this state shall not be eligible. The commission may provide such other rules as it considers appropriate concerning the membership and the functioning of any such delegation or committee. The commission may provide for advisory boards for itself and for its various delegations and committees, and may authorize private citizens to serve on such boards.

HISTORY: CL 1948, 3.37.

3.38 Commission on intergovernmental cooperation; reports, expenses.

Sec. 8. The commission shall report to the governor and to the legislature within 15 days after the convening of each regular legislative session, and at such other times as it deems appropriate. Its members and the members of all delegations and committees which it establishes shall serve without compensation for such service, but they shall be paid their necessary expenses in carrying out their obligations under this act, and such other expenses as are necessary are hereby authorized, to be paid from appropriations to said commission by the legislature.

HISTORY: CL 1948, 3.38;—Am. 1966, p. 228, Act 204, Eff. Mar. 10, 1967.

3.39 Committees on interstate cooperation, commission on intergovernmental cooperation; informal names.

Sec. 9. The committees and the commission established by this act shall be informally known, respectively, as the senate cooperation committee, the house cooperation committee, the governor's cooperation committee and the Michigan cooperation commission.

HISTORY: CL 1948, 3.39.

3.40 Council of state governments declared governmental agency.

Sec. 10. The council of state governments is hereby declared to be a joint governmental agency of this state and of the other states which cooperate through it.

HISTORY: CL 1948, 3.40.

3.41 Michigan highway reciprocity board authority unaffected.

Sec. 11. No provisions of this act shall supersede or change the authority granted in Act No. 185 of the Public Acts of 1937.

HISTORY: CL 1948, 3.41.

NOTE: Act 185, 1937, above referred to, is Compilers' §§ 3.151-3.154.

Sec. 12. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Act 282, 1964, p. 528; Eff. Aug. 28.

AN ACT to divide the state into 19 congressional districts; to provide for the nomination of candidates for representative in congress to be elected at the 1964 November election; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

3.51 Apportionment of congressional districts.

Sec. 1. The state is divided into 19 congressional districts pursuant to the ratio of representation fixed under an act of congress for the apportioning anew of the representatives among the several states. Each district is entitled to 1 representative. The districts are constituted and numbered as follows:

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(1) The first district consists of the city of Highland Park and that part of the city of Detroit enclosed in a line beginning at the intersection of Eight Mile road and Livernois avenue, south on Livernois avenue to the Pennsylvania and Detroit Terminal railroad, west on the Pennsylvania and Detroit Terminal railroad to Kentucky avenue, south on Kentucky avenue to Fullerton avenue, west on Fullerton avenue to Meyers road, south on Meyers road to Tireman avenue, east on Tireman avenue to the Detroit Terminal railroad and the western boundary of the city of Detroit, south on the western boundary of the city of Detroit to Warren avenue, east on Warren avenue to West Grand boulevard, north and east on West and East Grand boulevard to Joseph Campau, north on Joseph Campau to the southern boundary of the city of Hamtramck, west and north along the southern and western boundaries of the city of Hamtramck to the southern boundary of the city of Highland Park, west and north along the southern and western boundaries of the city of Highland Park to McNichols road, east on McNichols road to the eastern boundary of the city of Highland Park, south along the eastern boundary of the city of Highland Park to Davison avenue, east on Davison avenue to Conant avenue, north on Conant avenue to Nevada avenue, east on Nevada avenue to Fenelon avenue, north on Fenelon avenue to Seven Mile road, west on Seven Mile road to Eureka avenue, north on Eureka avenue to Eight Mile road, west on Eight Mile road to the point of beginning, in Wayne county.

(2) The second district consists of the counties of Lenawee, Livingston, Monroe and Washtenaw and the townships of Plymouth and Northville and the city of Plymouth, in Wayne county.

(3) The third district consists of the counties of Eaton, Calhoun, Barry, Kalamazoo and Clinton, except the townships of Bath and DeWitt.

(4) The fourth district consists of the counties of Allegan, Berrien, Cass, St. Joseph, Branch, Hillsdale and Van Buren.

(5) The fifth district consists of the counties of Ionia and Kent.

(6) The sixth district consists of the counties of Ingham, Jackson, Shiawassee and the townships of Bath and DeWitt in the county of Clinton.

(7) The seventh district consists of the counties of Genesee and Lapeer.

(8) The eighth district consists of the counties of Huron, Sanilac, Saginaw, St. Clair and Tuscola.

(9) The ninth district consists of the counties of Benzie, Lake, Leelanau, Grand Traverse, Manistee, Mason, Muskegon, Newaygo, Oceana, Wexford and Ottawa.

(10) The tenth district consists of the counties of Antrim, Alcona, Arenac, Bay, Clare, Crawford, Gratiot, Gladwin, Isabella, Iosco, Kalkaska, Mecosta, Midland, Missaukee, Montcalm, Osceola, Ogemaw, Oscoda and Roscommon.

(11) The eleventh district consists of the counties of Alger, Alpena, Baraga, Charlevoix, Cheboygan, Chippewa, Delta, Dickinson, Emmet, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Montmorency, Ontonagon, Otsego, Presque Isle and Schoolcraft.

(12) The twelfth district consists of the county of Macomb and that portion of the city of Detroit enclosed in a line beginning at the intersection of Eight Mile road and Redmond avenue, south on Redmond avenue to Seven Mile road, east on Seven Mile road to Kelly avenue, north on Kelly avenue to Eight Mile road, west on Eight Mile road to the point of beginning, in Wayne county.

(13) The thirteenth district consists of that part of the city of Detroit enclosed in a line beginning at the Detroit river and West Grand boulevard, north on West Grand boulevard to Myrtle avenue, west on Myrtle avenue to West Grand boulevard, north and east on West and East Grand boulevard to Griffin avenue, east on Griffin avenue to Moran avenue, south on Moran avenue to Milwaukee avenue, east on Milwaukee

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avenue to Mt. Elliott avenue, south on Mt. Elliott avenue to Harper avenue, east on Harper avenue to Conner avenue, south on Conner avenue to Jefferson avenue, east on Jefferson avenue to Piper avenue, south on Piper avenue to Essex avenue, east on Essex avenue to the eastern boundary of the city of Detroit, south on the eastern boundary of the city of Detroit to the southern boundary of the city of Detroit, west on the southern boundary of the city of Detroit to the point of beginning, in Wayne county.

(14) The fourteenth district consists of the cities of Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, Grosse Pointe Woods, Hamtramck and Harper Woods, and the township of Grosse Pointe in Wayne county, and that part of the city of Detroit enclosed in a line beginning at the intersection of Eight Mile road and Eureka avenue, south on Eureka avenue to Seven Mile road, east on Seven Mile road to Fenelon avenue, south on Fenelon avenue to Nevada avenue, west on Nevada avenue to Conant avenue, south on Conant avenue to Davison avenue, west on Davison avenue to the eastern boundary of the city of Highland Park, south on the eastern boundary of the city of Highland Park to the northern boundary of the city of Hamtramck, east and south on the northern and eastern boundaries of the city of Hamtramck to the southern boundary of the city of Hamtramck, west on the southern boundary of the city of Hamtramck to Joseph Campau, south on Joseph Campau to East Grand boulevard, east on East Grand boulevard and Griffin avenue to Moran avenue, south on Moran avenue to Milwaukee avenue, east on Milwaukee avenue to Mt. Elliott avenue, south on Mt. Elliott avenue to Harper avenue, east on Harper avenue to Conner avenue, south on Conner avenue to Jefferson avenue, east on Jefferson avenue to Piper avenue, south on Piper avenue to Essex avenue, east on Essex avenue to the eastern boundary of the city of Detroit, north on the eastern boundary of the city of Detroit to Kelly avenue, south on Kelly avenue to Seven Mile road, west on Seven Mile road to Redmond avenue, north on Redmond avenue to Eight Mile road, west on Eight Mile road to the point of beginning, in Wayne county.

(15) The fifteenth district consists of the townships of Canton, Dearborn, Huron, Nankin, Romulus, Sumpter, Taylor and Van Buren and the cities of Allen Park, Belleville, Dearborn Heights, Garden City, Lincoln Park, Melvindale and Wayne, in Wayne county.

(16) The sixteenth district consists of the townships of Brownstown and Grosse Ile and the cities of Dearborn, Ecorse, Gibraltar, River Rouge, Riverview, Southgate, Trenton and Wyandotte and that part of the city of Detroit south and west of a line beginning at the eastern boundary of the city of Dearborn and Warren avenue, east on Warren avenue to West Grand boulevard, south on West Grand boulevard to Myrtle avenue, east on Myrtle avenue to West Grand boulevard, south on West Grand boulevard to the Detroit river, in Wayne county.

(17) The seventeenth district consists of that part of the city of Detroit west of a line beginning at the intersection of Eight Mile road and Livernois avenue, south on Livernois avenue to the Pennsylvania and Detroit Terminal railroad, west on the Pennsylvania and Detroit Terminal railroad to Kentucky avenue, south on Kentucky avenue to Fullerton avenue, west on Fullerton avenue to Meyers road, south on Meyers road to the southern boundary of the city of Detroit, in Wayne county.

(18) The eighteenth district consists of the cities of Berkley, Birmingham, Bloomfield Hills, Clawson, Ferndale, Hazel Park, Huntington Woods, Lathrup Village, Madison Heights, Oak Park, Pleasant Ridge, Royal Oak, Southfield and Troy and the townships of Addison, Avon, Bloomfield, Oakland, Pontiac, Royal Oak and Southfield in Oakland county.

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(19) The nineteenth district consists of the townships of Brandon, Commerce, Farmington, Groveland, Highland, Holly, Independence, Lyon, Milford, Novi, Orion, Oxford, Rose, Springfield, Waterford, West Bloomfield and White Lake, and the cities of Farmington, Keego Harbor, Pontiac, South Lyon, Sylvan Lake, Walled Lake and Wixom in Oakland county, and that portion of the city of Northville lying in Oakland county, and the township of Redford and the city of Livonia in Wayne county and that portion of the city of Northville lying in Wayne county.

HISTORY: New 1964, p. 528, Act 282, Eff. Aug. 28.

3.52 Repeal.

Sec. 2. Act No. 249 of the Public Acts of 1963, being sections 3.11 and 3.12 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1964, p. 530, Act 282, Eff. Aug. 28.

3.101-3.106 Repealed. 1959, p. 105, Act 99, Eff. Jul. 3.

Sections related to Great Lakes tidewater commission act.

Act 207, 1969, p. 387; Imd. Eff. Aug. 6.

AN ACT to permit residents to purchase rifles and shotguns in contiguous states and to provide for reciprocity.

The People of the State of Michigan enact:

3.111 Rifles and shotguns; purchases by nonresidents.

Sec. 1. Residents of this state may purchase rifles and shotguns in any state contiguous thereto if they conform to the federal gun control act of 1968 and the regulations issued thereunder, as administered by the secretary of the treasury and the laws of the state where the purchase is made.

HISTORY: New 1969, p. 387, Act 207, Imd. Eff. Aug. 6.

3.112 Rifles and shotguns; purchases by nonresidents.

Sec. 2. Residents of a contiguous state may purchase rifles and shotguns in this state if they conform to the federal gun control act of 1968 and the regulations issued thereunder as administered by the secretary of the treasury and the laws of the state wherein the purchaser resides.

HISTORY: New 1969, p. 387, Act 207, Imd. Eff. Aug. 6.

3.151-3.154 Repealed. 1960, p. 142, Act 124, Imd. Eff. Apr. 26.

Sections created Michigan highway reciprocity board.

Act 124, 1960, p. 139; Imd. Eff. Apr. 26.

AN ACT to create the Michigan highway reciprocity board; to prescribe its powers and duties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

3.161 Michigan highway reciprocity board; definitions.

Sec. 1. When used in this act:

(a) "Person" means any individual, firm, partnership, association and corporation.

(b) "Jurisdiction" means other states of the United States, the District of Columbia, territories and possessions of the United States, foreign countries or political subdivisions of foreign countries.

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(c) "Properly registered" as applied to place of registration or licensing means the jurisdiction in which the board acting under section 5 determines a vehicle must be registered or licensed in order to be granted the privileges and benefits of this act when operating in this state.

(d) "Board" means the Michigan highway reciprocity board.

HISTORY: New 1960, p. 139, Act 124, Imd. Eff. Apr. 26.

CITED IN OTHER SECTIONS: Sections 3.161 to 3.177 are cited in § 16.131.

3.162 Creation, composition.

Sec. 2. There is hereby created the Michigan highway reciprocity board to consist of the secretary of state, the state highway commissioner and the chairman of the Michigan public service commission.

HISTORY: New 1960, p. 139, Act 124, Imd. Eff. Apr. 26.

3.163 Authority to make reciprocal agreements and compacts.

Sec. 3. Notwithstanding any other provision of law to the contrary, the board may enter into and make such reciprocal compacts, agreements or arrangements as the board deems proper or expedient and in the interests of the people of this state, with the proper authorities of other jurisdictions, either individually or with a group of jurisdictions, concerning the fees, charges, taxation, operation and regulation of trucks, tractors, trailers, automobiles, buses, and all other automotive equipment engaged in international, interstate or intrastate commerce upon and over the public highways.

HISTORY: New 1960, p. 139, Act 124, Imd. Eff. Apr. 26.

3.164 Compacts and agreements; conditions, contents, requirements.

Sec. 4. The compacts, agreements, or arrangements may grant to the owners or operators of vehicles properly registered in the jurisdictions, with which made, privileges and exemptions substantially like and equal to those granted by such jurisdictions to owners or operators of vehicles properly registered in this state, and shall provide that the owners or operators of vehicles registered in this state who have complied with all the laws, rules and regulations of this state respecting registration, registration fees, taxes, fees and operation of motor vehicles within this state, including owners or operators who comply with the provisions of any compact, agreement or arrangement which provides for the payment of less than all the registration fees or taxes otherwise payable to this state, when using the highways of such other jurisdictions, shall receive substantially equal privileges and exemptions. The compacts, agreements or arrangements may exempt the owners or operators of such foreign registered vehicles, using the highways of this state, from the payment of any or all taxes, fees or other charges imposed by the laws of this state, or may provide for the payment of a proportional part of such taxes, fees or other charges, with such appropriate restrictions, conditions and privileges as the board in its discretion determines to be in the best interest of the health, welfare and safety of the people of this state. Before any owner or operator may become entitled to the privileges and exemptions of any compact, agreement or arrangement, the person first must have his vehicle or vehicles properly registered under the laws of the jurisdiction which the board, acting under section 5, determines to be proper for his vehicles or under the provisions of any compact, agreement or arrangement to which his jurisdiction is a party, and shall conspicuously display a legal registration plate upon each vehicle so registered as prescribed by the law of his jurisdiction or by the terms of any compact, agreement or arrangement, and the operator of each vehicle while in possession and control thereof shall have upon his person a certificate of registration, or other official evidence of compliance with the above requirements, issued for the vehicle.

HISTORY: New 1960, p. 139, Act 124, Imd. Eff. Apr. 26.

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3.165 Jurisdiction for registration and licensing of vehicles.

Sec. 5. In administering the provisions of this act, the board may determine the proper jurisdiction for the registration or licensing for all vehicles whose owners or operators seek the privileges and benefits of this act. The board, in determining the jurisdiction where owners or operators must register or license their vehicles in order to be eligible for the privileges and benefits of this act, may require the vehicles to be registered or licensed in any of the following jurisdictions:

(a) The jurisdiction where the person registering the vehicle maintains his legal residence.

(b) The jurisdiction in which the person registering the vehicle operates a commercial enterprise or a branch of a commercial enterprise.

(c) The jurisdiction in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled in or from.

(d) The jurisdiction where, because of an agreement or arrangement between 2 or more jurisdictions, or pursuant to a declaration, the board designates as the domicile of such vehicle.

HISTORY: New 1980, p. 140, Act 124, Imd. Eff. Apr. 26.

3.166 Registration or licensing of vehicle operated from a domicile in other jurisdiction.

Sec. 6. A compact, agreement or arrangement entered into under the authority of this act, may contain provisions authorizing the registration or licensing in another jurisdiction of vehicles located in or operated from a domicile in the other jurisdiction, which vehicles otherwise would be required to be registered or licensed in this state; and in such event the exemptions and privileges extended by the compact, agreement or arrangement shall apply to such vehicles.

HISTORY: New 1980, p. 140, Act 124, Imd. Eff. Apr. 26.

3.167 Fleet vehicles; apportionment of fees.

Sec. 7. If any jurisdiction permits or requires the licensing of fleets of vehicles in interstate or combined interstate and intrastate commerce and payment of registration fees, license taxes or other fixed fees thereon on an apportionment basis commensurate with and determined by the miles traveled on and the use made of the jurisdiction's highways, or any other equitable basis of apportionment, and exempts vehicles registered in other jurisdictions under such apportionment basis from the requirement of full payment of its own registration, license or other fixed fees, then the board by agreement may adopt such exemption with respect to vehicles of such fleets, whether owned by residents or nonresidents of this state and regardless of where based. The agreements, under such terms, conditions or restrictions as the board deems proper, may provide that owners or operators of vehicles operated in interstate or combined interstate and intrastate commerce in this state shall be permitted to pay registration, license or other fixed fees on an apportionment basis commensurate with and determined by the miles traveled on and the use made of the highways of this state or any other equitable basis of apportionment determined by the board. No agreement shall authorize, or be construed as authorizing, any vehicle so registered to be operated in intrastate commerce in this state unless the owner or operator thereof has been granted intrastate authority or rights by the Michigan public service commission.

HISTORY: New 1980, p. 140, Act 124, Imd. Eff. Apr. 26.

3.168 Reciprocity on exemptions and privileges.

Sec. 8. In the absence of a compact, agreement or arrangement with any jurisdiction, the board may examine the laws and requirements of the jurisdiction and declare the extent and nature of the exemptions and privileges to be extended to the owners or

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operators of vehicles properly registered or licensed in the other jurisdiction, which in the judgment of the board, shall be equivalent to the exemptions and privileges which are extended by the laws of the jurisdiction, to vehicles properly registered or licensed in this state, or to the owners or operators of vehicles properly licensed in this state.

HISTORY: New 1960, p. 140, Act 124, Imd. Eff. Apr. 26.

3.169 Vehicles excepted from exemptions.

Sec. 9. The exemptions provided in this act shall not apply to a truck, tractor, truck-tractor, or semitrailer, except 2 wheel trailers of less than 2,500 pound carrying capacity; if

(a) The class of its registration does not permit to it a state-wide operation in the state of its registration.

(b) The registration fee or tax for which it is registered is computed on a mileage basis.

(c) Its gross weight exceeds the gross weight for which it is registered, or which it is permitted to haul, in the jurisdiction of its registration.

HISTORY: New 1960, p. 141, Act 124, Imd. Eff. Apr. 26.

3.170 Owners and operations excepted from exemptions.

Sec. 10. The exemptions provided in this act shall not apply to owners or operators of vehicles registered or licensed in other jurisdictions and operated within this state, including trucks, tractors, trailers, buses and all other automotive equipment domiciled in other jurisdictions, and bringing such vehicles into this state for the purpose of doing interstate business, who shall be required to comply with all the laws and regulations as to payment of taxes applicable to like vehicles registered in this state, unless such jurisdiction grants full reciprocity privileges comparable to that extended by this act.

HISTORY: New 1960, p. 141, Act 124, Imd. Eff. Apr. 26.

3.171 Limited agreements for partial reciprocity.

Sec. 11. To the extent another jurisdiction is not fully reciprocal as to taxes or fees on vehicles in international or interstate commerce, the board may make a limited agreement with the jurisdictions covering only part of the fees, taxes and charges otherwise applicable, or the board may require the owners or operators of the foreign registered vehicles to pay a tax in an amount equal to the tax of whatever character assessed by the other jurisdiction against vehicles registered in this state and operated in international or interstate commerce in that jurisdiction. Owners or operators of foreign registered vehicles which are subject to registration under the provisions of this section shall make application for a permit in which shall be set forth the conditions for operation of the vehicles in this state. The board may examine the laws of other jurisdictions and determine what taxes or fees shall be payable to this state by the owners or operators of foreign registered vehicles.

HISTORY: New 1960, p. 141, Act 124, Imd. Eff. Apr. 26.

3.172 Resident-owned, foreign-domiciled vehicles.

Sec. 12. The board may provide by regulation that the exemptions, benefits and privileges of this act shall be operative as to motor vehicles owned by a resident of this state and actually domiciled in another jurisdiction and properly registered and licensed in that jurisdiction.

HISTORY: New 1960, p. 141, Act 124, Imd. Eff. Apr. 26.

3.173 Denial or withdrawal of privileges and exemptions.

Sec. 13. The compacts, agreements or arrangements may also provide for the denial or withdrawal of the privileges and exemptions granted thereunder as to any person or

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vehicle if the board determines, upon good cause shown, that the person should not be granted and extended the privileges and exemptions.

HISTORY: New 1960, p. 141, Act 124, Imd. Eff. Apr. 26.

3.174 Rules and regulations; lists or vehicles, reciprocity plate display.

Sec. 14. The board from time to time, may adopt, amend and enforce rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, necessary or desirable in carrying out the provisions of this act. The board may require owners and operators of foreign registered vehicles claiming exemptions or privileges under compacts, agreements, arrangements or declarations authorized by this act, to supply lists of vehicles for which exemptions and privileges are requested and to require the vehicles to display a reciprocity plate or other identification prescribed by the board, as a prerequisite to the enjoyment of the exemptions and privileges claimed thereof.

HISTORY: New 1960, p. 141, Act 124, Imd. Eff. Apr. 26.

3.175 Highway reciprocity board officers and investigators; peace officers.

Sec. 15. The members of the board and such officers and investigators of their respective departments as they shall designate shall have the powers conferred upon peace officers by the general laws of this state when enforcing the provisions of this act. Nothing in this act shall be construed as authorizing the board or the members of the board to create a highway patrol.

HISTORY: New 1960, p. 142, Act 124, Imd. Eff. Apr. 26.

3.176 Public service commission; rules for vehicles in foreign commerce.

Sec. 16. The compacts, agreements and arrangements shall not operate to supersede or suspend the power and authority and discretion of the Michigan public service commission to make and enforce rules and regulations governing motor carriers for hire or to grant or deny certificates or permits to motor carriers for hire. The public service commission may adopt rules and regulations making applicable to vehicles operated in foreign commerce over the highways of this state similar provisions to those prescribed by Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.20 of the Compiled Laws of 1948, for vehicles operated in interstate and intrastate commerce over the highways of this state and by rule may make applicable to vehicles operating in foreign commerce fees and charges similar to those imposed upon vehicles of this state operating in other countries in foreign commerce.

HISTORY: New 1960, p. 142, Act 124, Imd. Eff. Apr. 26.

3.177 Repeal.

Sec. 17. Act No. 185 of the Public Acts of 1937, as amended, being sections 3.151 to 3.154 of the Compiled Laws of 1948 is hereby repealed.

HISTORY: New 1960, p. 142, Act 124, Imd. Eff. Apr. 26.

3.181 Repealed. 1967, p. 163, Act 135, Imd. Eff. Jun. 27.

Section related to cancellation of taxes on property purchased by the United States.

Act 3, 1942 (1st Ex. Ses.), p. 11; Imd. Eff. Jan. 28.

AN ACT to cede jurisdiction to the United States over certain lands, and for the purchase and condemnation thereof; and to repeal all acts and parts of acts inconsistent with this act.

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The People of the State of Michigan enact:

3.201 Ceding of jurisdiction to federal government; consent.

Sec. 1. The consent of the state of Michigan is hereby given in accordance with the seventeenth clause, eighth section, of the first article of the constitution of the United States, to the acquisition by the United States, by purchase, condemnation or otherwise, of any land in this state which has been, or may hereafter be acquired for forts, magazines, arsenals, dockyards and other needful buildings.

HISTORY: CL 1948, 3.201.

3.202 Ceding of jurisdiction; limitations, termination.

Sec. 2. Jurisdiction in and over any land so acquired by the United States is hereby ceded to the United States for all purposes, except that the state of Michigan retains concurrent jurisdiction with the United States over all lands affected by this act. The jurisdiction so ceded shall continue no longer than the United States shall own such land.

HISTORY: CL 1948, 3.202;—Am. 1965, p. 387, Act 223, Imd. Eff. Jul. 16.

3.203 Ceding of jurisdiction; transfer upon acquisition of title.

Sec. 3. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the lands by purchase, condemnation or otherwise.

HISTORY: CL 1948, 3.203;—Am. 1965, p. 387, Act 223, Imd. Eff. Jul. 16.

Sec. 4. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 318, 1941, p. 549; Eff. Jan. 10, 1942.

AN ACT to provide for the consummation of agreements for and on behalf of the political subdivisions of the state of Michigan, for payments of sums in lieu of taxes by the United States.

The People of the State of Michigan enact:

3.221 Federal payments in lieu of taxes, definition.

Sec. 1. The following definitions shall be applied to the terms used in this act:

(1) "Agreement" shall mean "contract" and shall include renewals and alterations of a contract.

(2) "Political subdivision" shall mean any agency or unit of this state which now is, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied.

(3) "Services" shall mean such public and municipal functions as are performed for property in, and for persons residing within, a political subdivision.

(4) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States located within a political subdivision, and shall include the persons inhabiting such project.

(5) "Governing body" shall mean the board, body, or persons in which the powers of a political subdivision as a body corporate, or otherwise, are vested.

HISTORY: CL 1948, 3.221.

3.222 Contracts between United States and state political subdivisions; authorization.

Sec. 2. The board of supervisors of any county in this state is hereby authorized and empowered (a) to make requests of the United States, for and on behalf of the county and political subdivisions whose jurisdictional limits are within or coextensive with the

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limits of the county, for the payment of such sums in lieu of taxes as the United States may agree to pay, and (b) to enter into agreements with the United States, in the name of the county, for the performance of services by the county and such political subdivisions for the benefit of a project, and for the payment by the United States to the county, in 1 or more installments, of sums in lieu of taxes.

HISTORY: CL 1948, 3.222.

3.223 Agreements on division of payment among political subdivisions.

Sec. 3. Each agreement entered into pursuant to section 2 shall contain the names of the political subdivisions in whose behalf it is consummated and a statement of the proportionate share of the payment by the United States to which each political subdivision shall be entitled. The board of supervisors shall immediately notify each political subdivision in whose behalf an agreement is entered into of the consummation thereof.

HISTORY: CL 1948, 3.223.

3.224 County treasurers' duties.

Sec. 4. The board of supervisors shall file 1 copy of any agreement for a payment of sums in lieu of taxes with the county treasurer. On or before the date on which any payment of sums in lieu of taxes is due, the county treasurer shall present a bill to the United States, in the name of the county, in the amount of such payment. Whenever such payment is received, the county treasurer shall issue a receipt therefor in the name of the county.

HISTORY: CL 1948, 3.224.

3.225 Distribution of payments; acceptance and refusal.

Sec. 5. Immediately after receiving a payment in lieu of taxes, the county treasurer shall, without any deduction, apportion and pay it to the several political subdivisions in accordance with the agreement under which the payment was received, notwithstanding any other law controlling the expenditure of county funds. The acceptance by the governing body of a political subdivision of its share of a payment in lieu of taxes shall be construed as an approval of the agreement under which the payment was received. If any governing body shall refuse to accept a political subdivision's share of a payment in lieu of taxes, the county treasurer shall refund the same, without any deduction, to the United States.

HISTORY: CL 1948, 3.225.

3.226 Direct United States political subdivision contract; authorization.

Sec. 6. If the United States declines to deal with a board of supervisors with respect to any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a political subdivision lie within more than 1 county, that political subdivision is authorized to make requests of the United States for such payments in lieu of taxes as the United States may agree to pay. Such political subdivision is hereby empowered to enter into agreements with the United States for the performance by the political subdivision of services for the benefit of a project and for the payment by the United States to the political subdivision, in 1 or more installments, of sums in lieu of taxes.

HISTORY: CL 1948, 3.226.

3.227 Basis for determination of amount of payment.

Sec. 7. The amount of any payment of sums in lieu of taxes may be based on the estimated cost to each political subdivision, for and on whose behalf an agreement is entered into, of performing services for the benefit of a project during the period of an agreement, after taking into consideration the benefits to be derived by each political subdivision from such project, but shall not be in excess of the taxes which would re-

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sult to each political subdivision for said period if the real property of the project within each political subdivision were taxable.

HISTORY: CL 1948, 3.227.

3.228 Depositing funds received by political subdivisions.

Sec. 8. All money received by a political subdivision pursuant to section 5 or 6 shall be deposited in such fund or funds as may be designated in the agreement: Provided, however, That if the agreement does not make such designation, the money shall be deposited in such fund or funds as the governing body of such political subdivision shall by appropriate resolution direct.

HISTORY: CL 1948, 3.228.

3.229 Duty of political subdivision to furnish services.

Sec. 9. No provision of this act shall be construed to relieve any political subdivision of this state, in the absence of an agreement for payment of sums in lieu of taxes by the United States, as provided in this act, of the duty of furnishing for the benefit of a project all services which the political subdivision usually furnishes to property in, and to persons residing within, the political subdivision without a payment of sums in lieu of taxes.

HISTORY: CL 1948, 3.229.

Act 4, 1874, p. 5; Imd. Eff. Mar. 24.

AN ACT concerning submarine sites for lighthouses and other aids to navigation and/or aeronautics, and sites for government areas, reservations or other stations including military and naval reservations and the building of sea walls, breakwaters, ramps, and piers outside the water line by the United States, and authorizing the governor to issue deeds for such land. Am. 1931, p. 442, Act 256, Imd. Eff. May 29.

The People of the State of Michigan enact:

3.301 Ceding of jurisdiction of state land to federal government; application, conveyance, limitations.

Sec. 1. That whenever the United States of America desire to acquire title to land belonging to the state of Michigan including land which is now or has in the past been covered by the navigable waters of the United States of America, for sites or for any improvement or addition to any government area, reservation, or other station including but not limited to military or naval reservations or stations, lighthouses, beacons, or other aids to navigation and/or aeronautics or for the building of sea walls, breakwaters, ramps, and piers, and application is made by a duly authorized agent of the United States, describing the site required for one of the purposes aforesaid, then the governor of the state is authorized and empowered to convey the title to the United States, and to cede to the United States jurisdiction over the same: Provided, The state shall retain concurrent jurisdiction so far that all process, civil or criminal, issuing under the authority of the state, may be executed by the proper officers thereof upon any person or persons amenable to the same within the limits of land so ceded, in like manner and to like effect as if this act had never been passed.

HISTORY: How. 5204;—CL 1897, 1148;—CL 1915, 233;—CL 1929, 409;—Am. 1931, p. 442, Act 256, Imd. Eff. May 29;—CL 1948, 3.301.

LIGHT HOUSE SITES: Act 60 of 1859, p. 103 (How. 5205-6), cedes jurisdiction to the United States, for light house purposes, over lands in the village of New Baltimore and at other places to be fixed upon by congress. Act 48 of 1867, p. 67 (How. 5207-8), cedes jurisdiction over lands: "On Granite Island, West Huron Island, Gull Island, between Point Keweenaw and Manitou Island; Lac La Belle, Portage Entry and Beaver Bay, all on Lake Superior; at St. Clair Flats, in the river St. Clair; at the mouth of White river, in Muskegon county; and at Trowbridge Point, or Alpena, in Thunder Bay," or other places in the vicinity. Both acts contain this proviso: "Provided always, and this cession is upon the express condition, that the state of Michigan shall so far retain a concurrent jurisdiction with the United States in and over the tracts of land aforesaid, that all civil and criminal process issued under the authority of this state, or any officer thereof, may be executed on said lands, and in the buildings that may be erected thereon, in the same way and manner as if jurisdiction had not been ceded as aforesaid." And both acts exempt the lands from taxation while owned by the United States.

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Act 5, 1874, p. 5; Imd. Eff. Mar. 24.

AN ACT to cede jurisdiction to the United States on certain land, and for the purchase and condemnation thereof.

The People of the State of Michigan enact:

3.321 Purchase or condemnation of lands by the United States.

Sec. 1. That the United States of America shall have power to purchase or to condemn, in the manner prescribed by its laws, upon making just compensation therefor, any land in the state of Michigan required for custom houses, arsenals, lighthouses, national cemeteries, or for other purposes of the government of the United States.

HISTORY: How. 5202;—CL 1897, 1149;—CL 1915, 234;—CL 1929, 410;—CL 1948, 3.321.

3.322 Purchase or condemnation of lands by the United States; entry, exclusive legislation, concurrent jurisdiction, tax exemption.

Sec. 2. The United States may enter upon and occupy any land which may have been, or may be purchased, or condemned, or otherwise acquired, and shall have the right of exclusive legislation, and concurrent jurisdiction together with the state of Michigan, over such land and the structures thereon, and shall hold the same exempt from all state, county and municipal taxation.

HISTORY: How. 5203;—CL 1897, 1150;—CL 1915, 235;—CL 1929, 411;—CL 1948, 3.322.

Act 52, 1871, p. 63; Imd. Eff. Mar. 29.

AN ACT ceding the jurisdiction of this state over certain lands owned by the United States.

The People of the State of Michigan enact:

3.341 Ceding of jurisdiction to federal government; filing of plats; concurrent jurisdiction; execution of process.

Sec. 1. That the jurisdiction of this state is hereby ceded to the United States of America, over all such pieces or parcels of land within the limits of this state, as have been or shall hereafter be selected and acquired by the United States, for the purpose of erecting postoffices, custom houses or other structures exclusively owned by the general government, and used for its purposes: Provided, That an accurate description and plat of such lands so acquired, verified by the oath of some officer of the general government having knowledge of the facts, shall be filed with the governor of this state: And provided further, That this cession is upon the express condition that the state of Michigan shall so far retain concurrent jurisdiction with the United States, in and over all lands acquired or hereafter acquired as aforesaid, that all civil and criminal process issued by any court of competent jurisdiction, or officers having authority of law to issue such process, and all orders made by such court, or any judicial officer duly empowered to make such orders, and necessary to be served upon any person, may be executed upon said lands, and in the buildings that may be erected thereon, in the same way and manner, as if jurisdiction had not been ceded, as aforesaid.

HISTORY: CL 1871, 3922;—How. 5209,—CL 1897, 1151;—CL 1915, 236;—CL 1929, 412,—CL 1948, 3.341.

SITES FOR PUBLIC OFFICES: The following cessions have been made for postoffice buildings, etc., each with a reservation of civil and criminal jurisdiction: Act 14 of 1887, p. 12 (How. 5210a), over grounds in Bay City, Act 15 of 1887, p. 13 (How. 5210b), in East Saginaw; Act 32 of 1887, p. 31 (How. 5210c), in Detroit, Act 12 of 1889, p. 12 (How. 5210g), in Jackson; Act 43 of 1889, p. 51 (How. 5210h), in Kalamazoo, Act 4 of 1891, p. 2, in Lansing.

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RIVER IMPROVEMENT: Act 110 of 1887, p. 127 (How. 5210e), cedes jurisdiction over lands occupied in the enlargement and improvement of Portage Lake and river, and the ship canal, with exemption from taxation; Act 104 of 1889, p. 108 (How. 5210i), over lands used for the improvement of Hay Lake channel, St. Mary's river; Act 113 of 1889, p. 127, (How. 5210j), over lands used in constructing a canal to improve Clinton river. All these acts reserve civil and criminal jurisdiction.

INDIAN SCHOOLS: Act 67 of 1887, p. 71 (How. 5210d), cedes jurisdiction over grounds in L'Anse township, Baraga county, for a government schoolhouse for Indians; Act 74 of 1891, p. 77, over grounds to be selected for Indian industrial school purposes. Both acts reserve civil and criminal jurisdiction.

FISH HATCHERY: Act 91 of 1891, p. 104, cedes jurisdiction over lands in Plymouth township, Wayne county, for fish hatchery and other public purposes, reserving civil and criminal jurisdiction.

3.342 Ceding of jurisdiction to federal government; tax exemption on lands.

Sec. 2. The lands aforesaid, when so acquired, shall forever be exempt from all taxes and assessments, so long as the same shall remain the property of the United States.

HISTORY: CL 1871, 3923;—How. 5210;—CL 1897, 1152;—CL 1915, 237;—CL 1929, 413;—CL 1948, 3.342.

Act 5, 1935, p. 18; Imd. Eff. Feb. 26.

AN ACT to authorize the acceptance of surrenders of certain lands leased by the state of Michigan, the payment for such surrenders and for improvements placed on said lands, and the conveyance of the same to the federal government for use as sites for lighthouses and other aids to navigation.

The People of the State of Michigan enact:

3.361 Lighthouse on St. Clair flats; surrender, boundaries, consideration.

Sec. 1. The conservation commission is hereby authorized and empowered for and in behalf of the state of Michigan to accept the surrender of lands hereinafter described and leased pursuant to Act No. 326 of the Public Acts of 1913, to-wit, all of lots 7 and 8, Star Island, Incorporated, subdivision of lot 31, as shown on sheet number 11, south channel of St. Clair survey, act of 1899, situated in St. Clair flats, county of St. Clair, state of Michigan, and bounded and described as follows:

Beginning at a monument marking the northwest corner of the property, being 404.57 feet south 66 degrees, 32 minutes east from the northwest corner of said lot 31, thence north 50 degrees, 29 minutes east 120 feet to a monument marking the northeast corner of property, thence south 39 degrees, 31 minutes east 140 feet to a point located in the waters of St. Clair river, marking the southeast corner of property, thence south 50 degrees, 29 minutes west 120 feet to a point in the waters of St. Clair river marking the southwest corner of property, thence north 39 degrees, 31 minutes west 140 feet to a point of beginning, containing approximately .38 acre, more or less, hereinafter called site A, and that part or parcel of lot 106 as shown on sheet number 15, south channel of St. Clair survey, act of 1899, situated in St. Clair flats, county of St. Clair, state of Michigan, and bounded and described as follows:

Beginning at a monument at the northeast corner of lot 106, thence south 25 degrees, 8 minutes, 15 seconds east 50 feet, following the established east line of lot 106 to corner monument, thence south 62 degrees, 25 minutes, 15 seconds west 100 feet to corner monument, thence north 25 degrees, 8 minutes, 15 seconds west 50 feet to a corner monument thence north 62 degrees, 25 minutes, 15 seconds east 100 feet to the point of beginning containing in all .115 acre more or less, hereinafter called site B; and said commission is authorized and empowered to pay to the lessees of site A, or to their assigns, for the surrender of said site A and the release of all rights therein and for improvements placed thereon, a sum of 2,000 dollars; and to the lessees of site B, or to their assigns, for the surrender of said site B and the release of all rights therein and for improvements placed thereon, a sum of 250 dollars.

HISTORY: CL 1948, 3.361.

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NOTE: Act 326, 1913, above referred to, is Compilers § 322.481 et seq.
The Act of 1899 above referred to is Act 175, which was superseded by Act 215 of 1909, in turn repealed, by Act 326 of 1913.

3.362 Lighthouse on St. Clair flats; appropriation.

Sec. 2. There is hereby appropriated the sum of 2,250 dollars from the general fund of the state to carry out the provisions of section 1.

HISTORY: CL 1948, 3.362.

3.363 Lighthouse on St. Clair flats; rights of lessees null and void.

Sec. 3. Upon the acceptance of such surrenders, all rights of lessees in and to said described lands and to improvements placed thereon shall be null and void.

HISTORY: CL 1948, 3.363.

3.364 Lighthouse on St. Clair flats; conveyance of lands to federal government; reversion.

Sec. 4. Upon the acceptance of such surrenders and upon payment to the state treasurer by the United States government of the sums authorized to be paid for the respective sites described in this act, the director of conservation of the state of Michigan is hereby authorized and empowered to convey by quit claim deed or deeds for and in behalf of the state of Michigan the title to said described lands to the United States for use as sites for lighthouses and other aids to navigation: Provided, That any such deed or deeds shall contain a provision providing that the lands contained therein shall revert to the state of Michigan when the same shall cease to be used as sites for lighthouses or other aids to navigation. The governor is authorized to cede to the United States jurisdiction of said lands: Provided, That this cession is upon the express condition that the state of Michigan shall so far retain concurrent jurisdiction with the United States in and over said lands aforesaid, that all civil and criminal process issued by any court of competent jurisdiction or officers having authority of law to issue such process and all orders made by such court, or any judicial officer duly empowered to make such orders necessary to be served upon any person, may be executed upon said lands in the same way and manner as if jurisdiction had not been ceded as aforesaid.

HISTORY: CL 1948, 3.364.

3.365 Lighthouse on St. Clair flats; consideration credited to general fund.

Sec. 5. The consideration received for the transfer of said property to the United States shall be credited to the general fund of the state.

HISTORY: CL 1948, 3.365.

Act 187, 1937, p. 293; Imd. Eff. Jul. 14.

AN ACT to authorize the conveyance of certain lands to the federal government for use by the United States bureau of biological survey; and to declare the effect thereof.

The People of the State of Michigan enact:

3.381 Conveyance of state lands to be used by United States biological survey; description.

Sec. 1. The director of conservation of the state of Michigan is hereby authorized and empowered to convey by quit claim deed or deeds for and in behalf of the state of Michigan, such title to the following described lands as is vested in the state of Michigan to the United States of America, to be used by the United States biological survey, all of lots number 108 and 110 as shown on sheet number 16, middle channel of the St. Clair flats survey under Act No. 175 of the Public Acts of 1899, situated in the so-called St. Clair flats, county of St. Clair, state of Michigan.

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HISTORY: CL 1948, 3.381.

NOTE: Act 175, 1899, above referred to, was superseded by Act 215 of 1909, in turn repealed by Act 326 of 1913, being Compilers' § 322.481 et seq.

3.382 United States biological survey lands; ceding of jurisdiction to federal government, concurrent jurisdiction.

Sec. 2. The jurisdiction of said lands is hereby ceded to the United States of America: Provided, That this cession is upon the express condition that the state of Michigan shall retain concurrent jurisdiction, both civil and criminal, over persons on said lands, so far that all civil and criminal process issued by any court of competent jurisdiction or officers having authority of law to issue such process and all orders made by such court, or any judicial officer duly empowered to make such orders necessary to be served upon any person, may be executed upon said lands in the same way and manner as if jurisdiction had not been ceded as aforesaid.

HISTORY: CL 1948, 3.382.

Act 312, 1923, p. 489; Eff. Aug. 30.

AN ACT to empower the United States of America to acquire lands in the state of Michigan by purchase or otherwise for establishing, consolidating, and extending national and state forests; to grant to the United States of America all rights necessary for the proper control and administration of lands so acquired; and to authorize cooperative agreements between the state of Michigan and the United States for the acquisition, management, and operation of public forest lands. Am. 1935, p. 351, Act 216, Eff. Sep. 21.

The People of the State of Michigan enact:

3.401 Forest lands; acquisition by United States, concurrent jurisdiction.

Sec. 1. That the consent of the state of Michigan be and is hereby given to the acquisition by the United States, by purchase, gift, or condemnation with adequate compensation, of such lands in Michigan as in the opinion of the federal government may be needed for the establishment, consolidation and extension of national forests in the state: Provided, That the state of Michigan shall retain a concurrent jurisdiction with the United States in and over lands so acquired so far that civil process in all cases, and such criminal process as may issue under the authority of the state of Michigan against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this act had not been passed.

HISTORY: CL 1929, 414;—CL 1948, 3.401.

CONDEMNATION: See Compilers' § 213.1 et seq.

3.401a Forest lands; agreements with federal agencies, administration as state forests, proceeds, distribution, title, state reimbursement.

Sec. 1a. Authority is hereby given for the conservation commission to enter into cooperative agreements with such federal agencies as have or may be given such authority by act of congress for the purpose of acquisition, management, and operation of public forest lands. Under such cooperative agreements, forest lands purchased by the United States shall be administered by the conservation commission as state forest lands and, during the period the agreement remains in force, 1/2 of the gross proceeds from all lands covered by the agreement and to which the United States holds title shall be paid by the state to the United States: Provided, That when the amount of such payments shall equal the total sum expended by the United States in acquiring said lands, title to said lands shall be transferred from the federal government to the state: And provided further, That in the event of the termination of said cooperative agreements where the title to said lands is in the United States, then the federal gov-

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ernment shall reimburse the state for so much of the state funds as have been expended in the administration, development, and management of the lands involved as the secretary of agriculture may decide to be fair and equitable.

HISTORY: Add. 1935, p. 351, Act 216, Eff. Sept. 21;—Am. 1937, p. 365, Act 234, Imd. Eff. July 21;—CL 1948, 3.401a.

3.402 Forest lands; federal legislation for rules and regulations.

Sec. 2. Power is hereby conferred upon the congress of the United States to pass such laws and to make or provide for the making of such rules and regulations, of both a civil and criminal nature, and provide punishment therefor, as in its judgment may be necessary for the administration, control, and protection of such lands as may be from time to time acquired by the United States under the provisions of this act.

HISTORY: CL 1929, 415;—CL 1948, 3.402.

Act 98, 1925, p. 134; Eff. Aug. 27.

AN ACT to authorize and direct the state board of agriculture to convey to the United States government a tract of land to be used for the purpose of erecting a building thereon to be used and maintained for a weather station observatory.

The People of the State of Michigan enact:

3.421 Weather station observatory; conveyance of land to federal government.

Sec. 1. The state board of agriculture is hereby authorized and directed to convey to the United States government, from the land of the Michigan state board of agriculture upon which the state agricultural college is located, a tract of land not exceeding 1/2 acre in extent, the location and boundaries of which are to be determined by the said board, for the use of the said United States government in erecting a building thereon to be used and maintained for a weather station observatory.

HISTORY: CL 1929, 416;—CL 1948, 3.421.

FORMER ACT: Act 94 of 1907, being CL 1915, 238, repealed by Act 309 of 1929, being CL 1929, 121.

Act 8, 1939, p. 14; Imd. Eff. Feb. 27.

AN ACT to cede jurisdiction over the Isle Royale National Park including any submerged lands within four and one-half miles of the shore line of Isle Royale and immediately surrounding islands to the United States, to convey title to the submerged lands to the United States, and to repeal all acts and parts of acts inconsistent with the provisions of this act. Am. 1949, p. 414, Act 281, Eff. Sep. 23.

The People of the State of Michigan enact:

3.441 Isle Royale national park; ceding of jurisdiction, state rights saved.

Sec. 1. Exclusive jurisdiction shall be and the same is hereby ceded to the United States over and within all the territory which is now or may hereafter be included in that area in the state of Michigan set aside and dedicated for park purposes by the United States as Isle Royale National Park including any submerged lands within four and one-half miles of the shore line of Isle Royale and immediately surrounding islands, the title to which is hereby conveyed to the United States; saving, however, to the state of Michigan all oil and mineral rights in and to said submerged lands and the right to serve civil or criminal process within the limits of the aforesaid park in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state outside of said park; and saving further to the said state the right to

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tax persons and corporations, their franchises and property on the lands included in said park; and saving also to the persons residing in said park now or hereafter the right to vote at all elections held within the county or counties in which said park is situate, and saving further that fishing in said waters shall be subject to and conducted according to state laws applicable thereto: Provided, however, That jurisdiction shall not vest until the United States through the proper officer notifies the state of Michigan that they assume police jurisdiction over said park.

HISTORY: CL 1948, 3.441;—Am. 1949, p. 414, Act 281, Eff. Sep. 23.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Act 168, 1967, p. 231; Imd. Eff. Jun. 30.

AN ACT to authorize the state administrative board to convey certain lands and to cede a certain water area in Alger county to the United States of America for use by the national park service; and to declare the effect thereof.

The People of the State of Michigan enact:

3.451 Pictured Rocks national lakeshore, conveyance to United States; approval by conservation commission.

Sec. 1. The state administrative board is authorized to convey by quit claim deed or deeds such title to lands as is vested in the state of Michigan and under the jurisdiction of the department of conservation and to cede the off shore water area, without any monetary consideration, for and in behalf of the state of Michigan, to the United States of America, as lie within the boundaries of the shoreline zone of the Pictured Rocks national lakeshore as depicted on the map identified as "proposed pictured rocks national lakeshore, United States department of the interior, national park service, boundary map NL-PR-7001A, July, 1966", to be used by the United States department of the interior. The conservation commission shall approve the descriptions and total acreage of land to be conveyed and water area to be ceded.

HISTORY: New 1967, p. 232, Act 168, Imd. Eff. Jun. 30.

3.452 Pictured Rocks national lakeshore; reversion to state.

Sec. 2. Any such deed and cession shall contain a provision that if the United States ceases to use the lands and water area for national lakeshore or similar public recreational purposes, all right, title and interest of the United States in and to these lands and water area shall cease and the lands and water area shall revert to the state of Michigan.

HISTORY: New 1967, p. 232, Act 168, Imd. Eff. Jun. 30.

3.453 Pictured Rocks national lakeshore; reservations and exceptions of mining and mineral rights.

Sec. 3. Any such deed and cession shall reserve all mineral, coal, oil and gas rights, but not including sand, gravel, clay or other nonmetallic minerals, to the state of Michigan, together with the right to explore for, mine and remove such minerals from these lands, but no drilling, mining or mineral removal operation of any kind shall be conducted upon the surface of these lands or in the water area.

HISTORY: New 1967, p. 232, Act 168, Imd. Eff. Jun. 30.

3.454 Pictured Rocks national lakeshore; concurrent jurisdiction.

Sec. 4. The jurisdiction of such lands and water area is ceded to the United States of America upon the express condition that the state of Michigan shall retain concurrent jurisdiction, both civil and criminal, over persons on such lands and water area, so that

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all civil and criminal process issued by any court of competent jurisdiction or officer having authority of law to issue such process and all orders made by such court, or any judicial officer duly empowered to make such orders necessary to be served upon any person, may be executed upon such lands and water area in the same manner as if jurisdiction had not been so ceded.

HISTORY: New 1967, p. 232, Act 168, Imd. Eff. Jun. 30.

3.455 Pictured Rocks national lakeshore; approval of conveyances.

Sec. 5. The deeds and instruments provided by this act shall be approved by the attorney general.

HISTORY: New 1967, p. 232, Act 168, Imd. Eff. Jun. 30.

Act 175, 1935, p. 276; Imd. Eff. Jun. 6.

AN ACT to authorize the conveyance of certain lands to the federal government for use in connection with the United States army; and to declare the effect of this act. Am. 1937, p. 183, Act 115, Imd. Eff. Jun. 25.

The People of the State of Michigan enact:

3.461 Conveyance of land to United States army use; description.

Sec. 1. The director of conservation of the state of Michigan is hereby authorized and empowered to convey by quit claim deed or deeds for and in behalf of the state of Michigan such title to the following described lands as is vested in the state of Michigan to the United States of America for use in connection with the United States army:

All those tracts, pieces or parcels of land, located in Oscoda township, county of Iosco, state of Michigan, and described as follows:

All that part of the southeast 1/4 of section 18 lying south of U.S. highway number 23, containing approximately 126.72 acres.

All of the east 1/2 of section 19, containing 320 acres.

All of the northwest 1/4 of section 20, lying south of U.S. highway number 23, containing approximately 156.13 acres.

All of the southwest 1/4 of the northeast 1/4 of section 20, lying south of U.S. highway number 23, containing approximately 37.4 acres.

All of the south 1/2 of section 20, containing 320 acres.

All of the west 1/2 of the southwest 1/4 of section 21, containing 80 acres.

All that part of the northeast 1/4 of section 30 lying north of the Oscoda-Glennie road, containing approximately 144.6 acres.

All that part of the north 1/2 of section 29 lying north of the Oscoda-Glennie road, containing approximately 190 acres.

HISTORY: Am. 1937, p. 183, Act 115, Imd. Eff. June 25;—CL 1948, 3.461.

3.462 Ceding of jurisdiction and concurrent jurisdiction of land conveyed to United States army use.

Sec. 2. The jurisdiction of said lands is hereby ceded to the United States of America: Provided, That this cession is upon the express condition that the state of Michigan shall so far retain concurrent jurisdiction with the United States in and over said lands aforesaid, that all civil and criminal process issued by any court of competent ju-

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risdiction or officers having authority of law to issue such process and all orders made by such court, or any judicial officer duly empowered to make such orders necessary to be served upon any person, may be executed upon said lands in the same way and manner as if jurisdiction had not been ceded as aforesaid.

HISTORY: CL 1948, 3.482.

Act 229, 1935, p. 385; Imd. Eff. Jun. 8.

AN ACT to authorize the conveyance of certain lands to the federal government for use in connection with the coast guard service; and to declare the effect of this act.

The People of the State of Michigan enact:

3.481 Conveyance of land to United States coast guard service use; reversion to state.

Sec. 1. The director of conservation of the state of Michigan is hereby authorized and empowered to convey by quit claim deed or deeds for and in behalf of the state of Michigan such title to the following described lands as is vested in the state of Michigan to the United States of America for use in connection with the coast guard service:

A parcel of land located in the Holland State Park in section 33, township 5 north, range 16 west, township of Park, county of Ottawa; said parcel having a frontage of approximately 450 feet on the north side of the channel between Black lake and Lake Michigan, and extending northerly approximately 160 feet to the state park road as now established.

Any such deed shall contain a provision providing that the lands contained therein shall revert to the state of Michigan when the same shall cease to be used in connection with the coast guard service.

HISTORY: CL 1948, 3.481.

3.482 Ceding of jurisdiction and concurrent jurisdiction of land conveyed to United States coast guard service.

Sec. 2. The jurisdiction of said lands is hereby ceded to the United State [United States] of America: Provided, That this cession is upon the express condition that the state of Michigan shall so far retain concurrent jurisdiction with the United States in and over said lands aforesaid, that all civil and criminal process issued by any court of competent jurisdiction or officers having authority of law to issue such process and all orders made by such court, or any judicial officer duly empowered to make such orders, and necessary to be served upon any person, may be executed upon said lands in the same way and manner as if jurisdiction had not been ceded as aforesaid.

HISTORY: CL 1948, 3.482.

Act 17, 1943, p. 17; Imd. Eff. Mar. 13.

AN ACT to authorize the state administrative board to lease state property to the armed forces of the United States government and to enter into agreements with or to grant permits to the armed forces of the United States government for the use by the armed forces of the United States government of the area and space over any of the great lakes lying within the boundaries of this state for firing range purposes. Am. 1947, p. 265, Act 188, Imd. Eff. Jun. 12;—Am. 1957, p. 299, Act 239, Imd. Eff. Jun. 6.

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The People of the State of Michigan enact:

3.501 State administrative board; lease of state property to United States armed forces; approval.

Sec. 1. The state administrative board of the state of Michigan is hereby authorized and empowered to lease to the armed forces of the United States of America, real and personal property of the state of Michigan upon the recommendation of the department of this state occupying and/or using such property on such terms and conditions as such department and the state administrative board may determine; subject, however, to the approval of such leases by the attorney general of this state. The state administrative board of the state of Michigan is also hereby authorized and empowered to enter into agreements with or to grant permits to the armed forces of the United States of America upon the recommendation of the conservation department of this state whereby the armed forces of the United States of America shall be permitted and allowed to use a certain area of lake Michigan lying opposite camp Claybanks in Oceana county described as follows:

	N. Latitude	W. Longitude
Beginning at	43° 43′ 00″	86° 44′ 00″
thence to	43° 33′ 00″	86° 30′ 00″
thence to	43° 30′ 00″	86° 28′ 30″
thence to	43° 17′ 00″	86° 30′ 00″
thence to	43° 20′ 00″	86° 42′ 00″
thence to	43° 30′ 00″	86° 49′ 00″
thence to point of beginning,		

within the boundaries of the state of Michigan for the purpose of using said area and space as anti-aircraft firing range on such terms and conditions as such department of conservation and the state administrative board may determine, subject, however, to the approval of such agreements and permits by the attorney general of this state.

HISTORY: Am. 1947, p. 265, Act 188, Imd. Eff. Jun. 12;—CL 1948, 3.501;—Am. 1957, p. 299, Act 239, Imd. Eff. Jun. 6.

3.501a Lease of Lansing city land to naval reserve.

Sec. 1a. The state administrative board of the state of Michigan is hereby empowered to lease to the United States naval reserve a parcel of land situated in the city of Lansing, described as follows: Beginning at the point of intersection of the south line of Saginaw street and the west line of Marshall avenue, thence south along the west line of Marshall avenue 350 feet, thence west parallel with the south line of Saginaw street 400 feet, thence north parallel with the west line of Marshall avenue 350 feet, thence east along the south line of Saginaw street 400 feet, to place of beginning. (Approximately 3.2 acres).

HISTORY: Add. 1947, p. 265, Act 188, Imd. Eff. June 12;—CL 1948, 3.501a.

Sec. 2.

HISTORY: Rep. 1947, p. 266, Act 188, Imd. Eff. June 12.

This section provided for expiration of act at termination of World War II.

Act 213, 1943, p. 345; Imd. Eff. Apr. 14.

AN ACT to provide for the sale to the United States of school equipment, supplies, and materials by school districts.

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The People of the State of Michigan enact:

3.521 Personal property of school districts; sale to United States.

Sec. 1. The board of education of any school district of this state, except primary districts, is hereby authorized to sell personal property of the district to the United States for war purposes and to give proper bills of sale or other instruments passing title to the same to the United States.

HISTORY: CL 1948, 3.521.

3.522 Expiration of act.

Sec. 2. This act shall expire upon the termination of the state of war now existing between the United States and each of the various nations or countries of the world with which this country is now at war or with which this country may be at war prior to the cessation of the present hostilities.

HISTORY: CL 1948, 3.522.

Act 12, 1942 (1st Ex. Ses.), p. 23; Imd. Eff. Jan. 28.

AN ACT to authorize the acceptance and purchase of federal equipment, supplies, materials and funds. Am. 1945, p. 62, Act 65, Imd. Eff. Mar. 28.

The People of the State of Michigan enact:

3.541 Federal grants of funds or property; authority of political subdivisions to accept.

Sec. 1. Whenever the United States, or any agency or officer thereof, or the war surplus property board, shall offer equipment, supplies, materials or funds for wartime or defense activities or for any other governmental purpose to the state or to any political subdivision thereof, the state or political subdivision is hereby authorized to accept such offer and the state administrative board of the state, or the legislative body of the political subdivision may authorize any officer of the state or of the political subdivision to accept or purchase said equipment, supplies, materials or funds on behalf of the state or political subdivision.

HISTORY: Am. 1945, p. 62, Act 65, Imd. Eff. Mar. 28;—CL 1948, 3.541.

CITED IN OTHER SECTIONS: The above section is cited in § 18.251.

3.542 School milk program; administered under rules of superintendent of public instruction, auditing and accounting.

Sec. 2. Whenever the equipment, supplies, materials or funds set forth in section 1 of this act relate to the special school milk program as extended by Public Law 752, 84th congress, or any other milk program, to increase the consumption of fluid milk by children in (1) nonprofit schools of high school grade and under and in (2) nonprofit nursery schools, child care centers, settlement houses, summer camps and similar nonprofit institutions devoted to the care and training of children, the receipt and distribution of such equipment, supplies, materials or funds shall be administered by the superintendent of public instruction under rules and regulations adopted by him: Provided, That any funds accepted for such purpose shall not be or become commingled with the funds of the state but shall be set apart in a separate account, and all transactions affecting the administration of such funds shall be audited and accounted for separately.

HISTORY: Add. 1956, Ex. Ses., p. 16, Act 14, Imd. Eff. Nov. 13.

Original section 2 of Act 12 of 1942 (1st Ex. Ses.), p. 23, was a war termination section and was repealed by Act 65 of 1945.

CITED IN OTHER SECTIONS: The above section is cited in § 18.251.

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Act 89, 1954, p. 106; Eff. Aug. 13.

AN ACT enabling the state of Michigan to cooperate with other states bordering on the Great Lakes and the province of Ontario, in regard to all matters and things affecting this state in the management, control and supervision of the waters in the Great Lakes, including the marine life therein; authorizing and empowering the governor of this state to execute an agreement to enable this state to become and continue to be a member of the interstate compact concerning said waters.

The People of the State of Michigan enact:

3.601 Great Lakes compact; cooperation with Ontario and bordering states; agreement authority.

Sec. 1. So that the state of Michigan can consult and cooperate with the other states bordering on the Great Lakes and the province of Ontario in regard to all matters and things affecting the rights and interests of this state and such other states and province, in the management, control and supervision of the waters of the Great Lakes including the marine life therein, the governor of the state of Michigan is hereby authorized and empowered for and in the name of the state of Michigan to execute an agreement or agreements with any or all the other states bordering on the Great Lakes and the province of Ontario, in conformity with the terms, conditions and provisions contained in this act.

HISTORY: New 1954, p. 106, Act 89, Eff. Aug. 13.

3.602 Compact; ratification.

Sec. 2. Such compact shall become operative whenever, in addition to Michigan, any 3 of the states of Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, New York and Minnesota shall have ratified it and congress has given its consent, if needed. The province of Ontario may become a party to this compact by taking such action as its laws and the laws of the Dominion of Canada may prescribe for ratification.

HISTORY: New 1954, p. 106, Act 89, Eff. Aug. 13.

3.603 Compact; terms, conditions, provisions.

Sec. 3. In addition to other pertinent and necessary provisions which are in consonance with the expressed purposes of the compact as herein provided, such a compact shall contain the following terms, conditions and provisions: Said compact shall authorize the compacting parties to do all things reasonably necessary for carrying out the purposes of this act but such a compact shall be entered into solely for the purpose of empowering the duly appointed representatives of said states and the province of Ontario to meet, consult with and make recommendations to their respective governors, legislative bodies or governmental agencies and to the international joint commission established under the treaty of 1909 between the United States and Great Britain with respect to the management, control and supervision of the waters of the Great Lakes including the marine life therein. However, it is distinctly provided that any such recommendation and any decision or agreement arrived at among the compacting parties shall at no time have any force of law or be binding on any compacting party.

HISTORY: New 1954, p. 107, Act 89, Eff. Aug. 13.

3.604 Compact commission; memberships, oath.

Sec. 4. Each compacting party shall have the right to designate 5 representatives to such interstate compact commission to be known as the Great Lakes compact commission. For the state of Michigan the attorney general, the director of conservation, and the executive secretary of the water resources commission shall be members of the Michigan representation by virtue of their offices; the governor shall appoint, with the

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advice and consent of the senate, the remaining 2 members who shall come from groups or organizations interested in or affected by the Great Lakes, which members shall serve at his pleasure and who, before entering upon the performance of their office, shall take and subscribe to the constitutional oath of office.

HISTORY: New 1954, p. 107, Act 89, Eff. Aug. 13.

3.605 Compact; effective date; commission meetings, officers, duties, quorum.

Sec. 5. The compact herein provided shall become effective upon the adoption of laws by the states referred to in section 2 in conformity with the provisions of this act. When, in addition to Michigan, any 3 of the states of Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, New York and Minnesota have adopted such laws and the congress of the United States has given its consent, if needed, the designated representatives of the Great Lakes compact commission shall meet upon the call of any governor of any of the ratifying states or the legally designated governmental official of the province of Ontario. At such meeting or at any subsequent meeting the duly designated representatives shall adopt a compact agreement not inconsistent in any way with this act and containing the necessary provisions for enabling the commission to carry out the purposes of this act. At such meeting or at subsequent meetings, the representatives composing such commission shall select a chairman and a secretary from among their numbers and such other officers as to them may seem expedient and shall prescribe the duties of such officers. A 2/3 majority of all representatives designated shall be sufficient to form a quorum for the transaction of business. Said commission shall meet from time to time or at such places or locations as it shall seem necessary and proper or shall meet upon the call of the chairman and such call shall designate the time and place of meeting and the purpose thereof.

HISTORY: New 1954, p. 107, Act 89, Eff. Aug. 13.

3.606 Compact; commission; records of meetings and proceedings, reports.

Sec. 6. Said commission shall keep a written record of its meetings and proceedings and shall annually make a report thereof to be submitted to the duly designated official of each compacting party.

HISTORY: New 1954, p. 107, Act 89, Eff. Aug. 13.

3.607 Compact commission; expenses.

Sec. 7. Each compacting party shall pay for the expenses of its representatives on said commission and each compacting party shall pay to the secretary of the commission a pro rata share of the expenses of said commission. No expenditures shall be authorized under the provisions of this act unless and until moneys shall be appropriated therefor by the legislature.

HISTORY: New 1954, p. 107, Act 89, Eff. Aug. 13.

Act 28, 1955, p. 27; Imd. Eff. Apr. 14.

AN ACT ratifying, enacting into law, and entering into the great lakes basin compact; providing for the representation of this state on the commission created thereby; providing for the cooperation of agencies of this state with said commission; and providing financial contribution to the support of said commission.

The People of the State of Michigan enact:

3.651 Great Lakes basin compact; ratification, contents.

Sec. 1. The great lakes basin compact is hereby ratified, enacted into law, and entered into by this state as a party thereto with any other state or province which, pur-

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suant to article II of said compact, has legally joined therein in the form substantially as follows:

GREAT LAKES BASIN COMPACT

The party states solemnly agree:

Article I. Purpose

The purposes of this compact are, through means of joint or cooperative action:

1. To promote the orderly, integrated, and comprehensive development, use, and conservation of the water resources of the Great Lakes Basin (hereinafter called the Basin).

2. To plan for the welfare and development of the water resources of the Basin as a whole as well as for those portions of the Basin which may have problems of special concern.

3. To make it possible for the states of the Basin and their people to derive the maximum benefit from utilization of public works, in the form of navigational aids or otherwise, which may exist or which may be constructed from time to time.

4. To advise in securing and maintaining a proper balance among industrial, commercial, agricultural, water supply, residential, recreational, and other legitimate uses of the water resources of the Basin.

5. To establish and maintain an intergovernmental agency to the end that the purposes of this compact may be accomplished more effectively.

Article II. Enactment and Effective Date

A. This compact shall enter into force and become effective and binding when it has been enacted by the legislatures of any 4 of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin and thereafter shall enter into force and become effective and binding as to any other of said states when enacted by the legislature thereof.

B. The Province of Ontario and the Province of Quebec, or either of them, may become states party to this compact by taking such action as their laws and the laws of the government of Canada may prescribe for adherence thereto. For the purpose of this compact the word "state" shall be construed to include a Province of Canada.

Article III. The Basin

The Great Lakes Commission created by Article IV of this compact shall exercise its powers and perform its functions in respect to the Basin which, for the purposes of this compact, shall consist of so much of the following as may be within the party states:

1. Lakes Erie, Huron, Michigan, Ontario, St. Clair, Superior, and the St. Lawrence River, together with any and all natural or man-made water interconnections between or among them.

2. All rivers, ponds, lakes, streams, and other watercourses which, in their natural state or in their prevailing condition, are tributary to Lakes Erie, Huron, Michigan, Ontario, St. Clair, and Superior or any of them or which comprise part of any watershed draining into any of said lakes.

Article IV. The Commission

A. There is hereby created an agency of the party states to be known as The Great Lakes Commission (hereinafter called the Commission). In that name the Commission may sue and be sued, acquire, hold and convey real and personal property and any interest therein. The Commission shall have a seal with the words "The Great Lakes Commission" and such other design as it may prescribe engraved thereon by which it shall authenticate its proceedings. Transactions involving real or personal property shall conform to the laws of the state in which the property is located, and the Com-

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mission may by bylaws provide for the execution and acknowledgment of all instruments in its behalf.

B. The Commission shall be composed of not less than 3 commissioners nor more than 5 commissioners from each party state designated or appointed in accordance with the law of the state which they represent and serving and subject to removal in accordance with such law.

C. Each state delegation shall be entitled to 3 votes in the Commission. The presence of commissioners from a majority of the party states shall constitute a quorum for the transaction of business at any meeting of the Commission. Actions of the Commission shall be by a majority of the votes cast except that any recommendations made pursuant to Article VI of this compact shall require an affirmative vote of not less than a majority of the votes cast from each of a majority of the states present and voting.

D. The commissioners of any 2 or more party states may meet separately to consider problems of particular interest to their states but no action taken at any such meeting shall be deemed an action of the Commission unless and until the Commission shall specifically approve the same.

E. In the absence of any commissioner, his vote may be cast by another representative or commissioner of his state provided that said commissioner or other representative casting said vote shall have a written proxy in proper form as may be required by the Commission.

F. The Commission shall elect annually from among its members a chairman and vice-chairman. The Commission shall appoint an Executive Director who shall also act as secretary-treasurer, and who shall be bonded in such amount as the Commission may require. The Executive Director shall serve at the pleasure of the Commission and at such compensation and under such terms and conditions as may be fixed by it. The Executive Director shall be custodian of the records of the Commission with authority to affix the Commission's official seal and to attest to and certify such records or copies thereof.

G. The Executive Director, subject to the approval of the Commission in such cases as its bylaws may provide, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions. Subject to the aforesaid approval, the Executive Director may fix their compensation, define their duties, and require bonds of such of them as the Commission may designate.

H. The Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may borrow, accept, or contract for the services of personnel from any state or government or any subdivision or agency thereof, from any intergovernmental agency, or from any institution, person, firm or corporation; and may accept for any of the Commission's purposes and functions under this compact any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from any state or government or any subdivision or agency thereof or intergovernmental agency or from any institution, person, firm or corporation and may receive and utilize the same.

I. The Commission may establish and maintain 1 or more offices for the transacting of its business and for such purposes the Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may acquire, hold and dispose of real and personal property necessary to the performance of its functions.

J. No tax levied or imposed by any party state or any political subdivision thereof shall be deemed to apply to property, transactions, or income of the Commission.

K. The Commission may adopt, amend and rescind bylaws, rules and regulations for the conduct of its business.

L. The organization meeting of the Commission shall be held within 6 months from the effective date of this compact.

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M. The Commission and its Executive Director shall make available to the party states any information within its possession and shall always provide free access to its records by duly authorized representatives of such party states.

N. The Commission shall keep a written record of its meetings and proceedings and shall annually make a report thereof to be submitted to the duly designated official of each party state.

O. The Commission shall make and transmit annually to the legislature and governor of each party state a report covering the activities of the Commission for the preceding year and embodying such recommendations as may have been adopted by the Commission. The Commission may issue such additional reports as it may deem desirable.

Article V. Finance

A. The members of the Commission shall serve without compensation, but the expenses of each commissioner shall be met by the state which he represents in accordance with the law of that state. All other expenses incurred by the Commission in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided by this compact, shall be paid by the Commission out of its own funds.

B. The Commission shall submit to the executive head or designated officer of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

C. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Detailed commission budgets shall be recommended by a majority of the votes cast, and the costs shall be allocated equitably among the party states in accordance with their respective interests.

D. The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under Article IV (H) of this compact, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligations to be met in whole or in part in this manner. Except where the Commission makes use of funds available to it under Article IV (H) hereof, the Commission shall not incur any obligations prior to the allotment of funds by the party states adequate to meet the same.

E. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under the bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the Commission.

F. The accounts of the Commission shall be open at any reasonable time for inspection by such agency, representative or representatives of the party states as may be duly constituted for that purpose and by others who may be authorized by the Commission.

Article VI. Powers of Commission

The Commission shall have power to:

A. Collect, correlate, interpret, and report on data relating to the water resources and the use thereof in the Basin or any portion thereof.

B. Recommend methods for the orderly, efficient, and balanced development, use, and conservation of the water resources of the Basin or any portion thereof to the party states and to any other governments or agencies having interests in or jurisdiction over the Basin or any portion thereof.

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C. Consider the need for and desirability of public works and improvements relating to the water resources in the Basin or any portion thereof.

D. Consider means of improving navigation and port facilities in the Basin or any portion thereof.

E. Consider means of improving and maintaining the fisheries of the Basin or any portion thereof.

F. Recommend policies relating to water resources including the institution and alteration of flood plain and other zoning laws, ordinances and regulations.

G. Recommend uniform or other laws, ordinances, or regulations relating to the development, use and conservation of the Basin's water resources to the party states or any of them and to other governments, political subdivisions, agencies, or intergovernmental bodies having interests in or jurisdiction sufficient to affect conditions in the Basin or any portion thereof.

H. Consider and recommend amendments or agreements supplementary to this compact to the party states or any of them, and assist in the formulation and drafting of such amendments or supplementary agreements.

I. Prepare and publish reports, bulletins, and publications appropriate to this work and fix reasonable sale prices therefor.

J. With respect to the water resources of the Basin or any portion thereof, recommend agreements between the governments of the United States and Canada.

K. Recommend mutual arrangements expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of Canada including but not limited to such agreements and mutual arrangements as are provided for by Article XIII of the Treaty of 1909 Relating to Boundary Waters and Questions Arising Between the United States and Canada. (Treaty Series, No. 548).

L. Cooperate with the governments of the United States and of Canada, the party states and any public or private agencies or bodies having interests in or jurisdiction sufficient to affect the Basin or any portion thereof.

M. At the request of the United States, or in the event that a Province shall be a party state, at the request of the government of Canada, assist in the negotiation and formulation of any treaty or other mutual arrangement or agreement between the United States and Canada with reference to the Basin or any portion thereof.

N. Make any recommendation and do all things necessary and proper to carry out the powers conferred upon the Commission by this compact; provided that no action of the Commission shall have the force of law in, or be binding upon, any party state.

Article VII. State Action

Each party state agrees to consider the action the Commission recommends in respect to:

A. Stabilization of lake levels.

B. Measures for combating pollution, beach erosion, floods, and shore inundation.

C. Uniformity in navigation regulations within the constitutional powers of the states.

D. Proposed navigation aids and improvements.

E. Uniformity or effective coordinating action in fishing laws and regulations and cooperative action to eradicate destructive and parasitical forces endangering the fisheries, wild life and other water resources.

F. Suitable hydroelectric power developments.

G. Cooperative programs for control of soil and bank erosion for the general improvement of the Basin.

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H. Diversion of waters from and into the Basin.

I. Other measures the Commission may recommend to the states pursuant to Article VI of this compact.

Article VIII. Renunciation

This compact shall continue in force and remain binding upon each party state until renounced by act of the legislature of such state, in such form and manner as it may choose and as may be valid and effective to repeal a statute of said state; provided that such renunciation shall not become effective until 6 months after notice of such action shall have been officially communicated in writing to the executive head of the other party states.

Article IX. Construction and Severability

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or in the case of a Province, to the British North America Act of 1867 as amended, or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to any state, agency, person or circumstance shall not be affected thereby, provided further that if this compact shall be held contrary to the constitution of the United States, or in the case of a Province, to the British North America Act of 1867 as amended, or of any party state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

HISTORY: New 1955, p. 27, Act 28, Imd. Eff. Apr. 14.

3.652 Great Lakes commission; members, oath, expenses, voting rights.

Sec. 2. In pursuance of article IV of the compact, there shall be 5 commissioners on the Great Lakes commission (hereinafter called the commission) from this state. Each commissioner shall have all of the powers conferred on a commissioner by the compact or which shall be necessary or incidental to the performance of his functions as such a commissioner. For this state the attorney general, the director of the department of natural resources, the executive secretary of the water resources commission and the director of the department of commerce shall be members of the Michigan representation by virtue of their offices. The governor shall appoint, with the advice and consent of the senate, the remaining 1 member who shall come from groups or organizations interested in or affected by the Great Lakes, which member shall serve at his pleasure and who, before entering upon the performance of their office, shall take and subscribe to the constitutional oath of office. The 1 member appointed by the governor shall serve without pay, but all commissioners shall receive necessary expenses incurred in the performance of their duties. Each commissioner shall have the right to cast 3/5 of a vote whenever a vote is required by the terms of the compact.

HISTORY: New 1955, p. 31, Act 28, Imd. Eff. Apr. 14;—Am. 1969, p. 58, Act 29, Imd. Eff. Jul. 10.

3.653 Commission; cooperation by state officers.

Sec. 3. All officers of this state are hereby authorized and directed to do all things falling within their respective jurisdictions necessary to or incidental to the carrying out of said compact in every particular, it being hereby declared to be the policy of this state to perform and carry out the said compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the state government

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or administration of this state are hereby authorized and directed at reasonable times and upon request of said commission to furnish the said commission with information and data possessed by them or any of them and to aid said commission by loan of personnel or other means lying within their legal powers respectively.

HISTORY: New 1955, p. 31, Act 28, Imd. Eff. Apr. 14.

3.654 Commission; budget, appropriations.

Sec. 4. The budget of the estimated expenditures of the commission shall be submitted to the director of the department of natural resources and to the director of the department of commerce for such period and in form as shall be required by them. Neither the compact nor this act shall be construed to commit, or authorize the expenditure of, any funds of the state except in pursuance of appropriations made by the legislature.

HISTORY: New 1955, p. 32, Act 28, Imd. Eff. Apr. 14;—Am. 1969, p. 58, Act 29, Imd. Eff. Jul. 10.

3.655 Basin compact; transmission of copy of act and compact to other parties.

Sec. 5. The governor is hereby authorized and directed to transmit a duly authenticated copy of this act and the compact contained herein to each jurisdiction now party to the compact and to each jurisdiction which subsequently shall become party to the compact.

HISTORY: New 1955, p. 32, Act 28, Imd. Eff. Apr. 14.

Act 203, 1958, p. 254; Eff. Sep. 13.

AN ACT providing for the joinder of this state in an interstate compact on juveniles; to provide the terms of the compact; and to prescribe the powers and duties of the department of social welfare and the jurisdiction of the probate courts. Am. 1962, p. 168, Act 165, Eff. Mar. 28, 1963.

The People of the State of Michigan enact:

3.701 Interstate compact on juveniles; enactment, contents.

Sec. 1. The interstate compact on juveniles is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

ARTICLE I—Finding and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of non-delinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the non-criminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this com-

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pact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II—Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures and shall not be in derogation of parental rights and responsibilities.

ARTICLE III—Definitions

That, for the purposes of this compact "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV—Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency, entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceed-

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ing. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other forms of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V—Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The

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requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

ARTICLE VI—Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state

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party to this compact under the provisions of Article IV (a) or of Article V (a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of the counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII—Cooperative Supervision of Probationers and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or a parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent

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of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII—Responsibility for Costs

(a) That the provisions of Articles IV (b), V (b) and VII (d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this compact.

ARTICLE IX—Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X—Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreement will improve facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) makes provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI—Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

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ARTICLE XII—Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII—Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV—Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by act of the legislature, by sending 6 months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the 6 months' renunciation notice of the present article.

ARTICLE XV—Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

HISTORY: New 1958, p. 254, Act 203, Eff. Sep. 13;—Am. 1962, p. 168, Act 165, Eff. Mar. 28, 1963.
CITED IN OTHER SECTIONS: Sections 3.701 to 3.706 are cited in § 400.115.

3.702 Administration by department of social welfare; compact administrator.

Sec. 2. The state department of social welfare, hereinafter referred to as "the department", shall administer the state administrative functions under this act. Pursuant to Article XII of the interstate compact on juveniles, hereinafter referred to as "the compact", the governor shall designate an employee of the department, nominated by the social welfare commission for this purpose, to serve at the pleasure of the social welfare commission as the compact administrator, who, acting jointly with like officers of other party states, shall recommend rules and regulations to the social welfare commission for promulgation to carry out more effectively the terms and provisions of the compact. The department shall have the power and duty to cooperate with all other departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

HISTORY: New 1958, p. 259, Act 203, Eff. Sep. 13.

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3.703 Administration by department of social welfare; supplemental agreements with Michigan and other states' officials.

Sec. 3. The department is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

HISTORY: New 1958, p. 260, Act 203, Eff. Sep. 13.

3.704 Probate court jurisdiction; definition; maximum age.

Sec. 4. All proceedings under this act shall be in the probate court, juvenile division, and to that end this act shall be considered supplementary to chapter 12A of Act No. 288 of the Public Acts of 1939, as added, being sections 712A.1 to 712A.28 of the Compiled Laws of 1948, as amended. For the purpose of establishing jurisdiction under the compact when Michigan is the demanding state, the phrase "proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile" as used in the compact shall be deemed to refer to a proceeding under section 2 of chapter 12A of Act No. 288 of the Public Acts of 1939, as amended, being section 712A.2 of the Compiled Laws of 1948, following the authorization of the filing of a petition by the court; and the phrase "adjudged delinquent" shall be deemed to refer to children who are subject to the jurisdiction of the probate court, juvenile division under the provisions of subdivisions (a) or (d) of said section 2. The words "absconded", "escaped" or "runaway" shall not be deemed to apply to the case of a child who is in the custody of a parent in a distant state when there is pending in Michigan a suit for divorce or separate maintenance by the parents or, the parents having been divorced, the child is subject to a custody order issued by the circuit court granting the divorce. No demand shall be made by Michigan under this act for the return of any child 19 years of age or older.

HISTORY: New 1958, p. 260, Act 203, Eff. Sep. 13.

3.705 Department of social welfare payment of chargeable expenses.

Sec. 5. The department, subject to the approval of the controller, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder. The department may use funds received from the federal government for child welfare services for administering state services under this act to the extent provided by the rules and regulations of the department. No court or administrative service of this state shall make any charge for any filing fee or for any copy or certified copy of any order which may be necessary to carry out the purposes of this act. The costs for the return of juveniles to institutions or facilities operated by the department may be paid from the respective contractual services appropriation of such institution or facilities: Provided, That the court in demanding the return of a child shall determine whether a parent whose rights to the child have not been terminated is able to pay for the return of said child in whole or in part and to order that payment as reimbursement of the county or of the state institution which has paid for the return as provided in section 18 of chapter 12A of Act No. 288 of the Public Acts of 1939, as amended, being section 712A.18 of the Compiled Laws of 1948: And provided further, That the remainder of transportation expenses and other expenses incidental thereto of these children and all of the transportation and incidental expenses of other children, if not being returned to institutions or facilities operated by the department, shall be paid on

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order of the juvenile court in the same manner and from the same fund as if the child were in detention in the juvenile detention facility used by the court.

HISTORY: New 1958, p. 260, Act 203, Eff. Sep. 13.

3.706 Enforcement of compact.

Sec. 6. The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdiction.

HISTORY: New 1958, p. 260, Act 203, Eff. Sep. 13.

Act 54, 1965, p. 87; Imd. Eff. Jun. 18.

AN ACT authorizing the governor to enter into agreements with the federal government and the states of the union relative to responsibilities over sources of ionizing radiation.

The People of the State of Michigan enact:

3.801 Atomic energy; agreements by governor with federal government; ratification.

Sec. 1. The governor, on behalf of the state, is authorized to enter into agreement with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by this state pursuant to Public Laws 86-373, federal-state amendments to the atomic energy act of 1954. Such agreements shall become effective only when ratified by law.

HISTORY: New 1965, p. 88, Act 54, Imd. Eff. Jun. 18.

3.802 Atomic energy; agreements by governor with other states; ratification.

Sec. 2. The governor, on behalf of the state, is authorized to enter into agreements with other states of the union in order to facilitate interstate cooperation in accomplishing the purposes of this act. Such agreements shall become effective only when ratified by law.

HISTORY: New 1965, p. 88, Act 54, Imd. Eff. Jun. 18.

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CHAPTER 4. LEGISLATURE

SENATORIAL DISTRICTS

Act 291 of 1925

4.1 Repealed.

COMMISSION ON LEGISLATIVE APPORTIONMENT

Act 46 of 1963 (2nd Ex. Ses.)

4.11 Commission on legislative apportionment; number, selection, regional distribution.

4.12 Commission on legislative apportionment; membership eligibility; ineligible for election to legislature.

4.13 Commission on legislative apportionment; appointment, terms, vacancies.

4.14 Commission on legislative apportionment; secretary of state; duties; chairman; compensation; travel and other expenses.

4.15 Commission on legislative apportionment; convening, completion of work, public hearings, notices.

4.16 Secretary of State; apportionment and districting plan; publication, inclusion in public acts.

4.17 Commission; disagreement on plan; submission to supreme court.

4.18 Elector's application for review of plan, supreme court powers.

4.19 Effective date.

4.20 Repeal.

REPRESENTATIVE DISTRICTS

Act 228 of 1943

4.21 Repealed.

4.22 Division of county into representative districts.

Act 178 of 1953

4.31 Repealed.

ORGANIZATION OF LEGISLATURE

Act 67 of 1877

4.41 Legislature, members elect; delivery of list by secretary of state, time; designation by districts.

4.42 Convening of legislature, time, organization, temporary rules.

4.43 Lieutenant governor's absence, secretary to preside; roll call.

4.44 Clerk to preside pending election of speaker; roll call.

4.45 Secretary of senate, clerk of house; vacancies in office.

4.46 Administration of oath of office.

SEATING IN HOUSE

Act 58 of 1893

4.61 House of representatives; selection of seats by lot, procedure; absent members.

CONTEMPTS, PRIVILEGES AND OATHS

Ch. 2, R.S. 1846

4.82 Contempts; punishable offenses.

4.83 Contempts; misdemeanor; penalty.

4.84 Oath of member.

4.85 Oath of witnesses.

LEGISLATIVE COMMITTEE POWERS

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4.311 Short title; legislative council act.

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4.313 Legislative council; membership, appointment, removal, vacancies, terms, expenses.

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4.315 Legislative service bureau; director; appointment, qualifications, compensation.

4.316 Legislative service bureau director; duties.

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4.511 Legislators; definitions.
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4.541 Legislative committees; inspection of records and files of state departments, boards, institutions, and agencies; subpoena duces tecum.

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4.580 Compensation; members, president of senate.

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Act 305 of 1957

4.630 Compensation; members, president of senate.

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4.649 Compensation; members, president of senate.

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4.669 Compensation; members, president of senate.

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4.689 Department of administration; study of data processing equipment use.

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4.698 Salaries of state officers.
4.702 Legislative audit commission; creation, duties, meetings.

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4.718 Salaries of state officers, legislators.
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4.740 Vehicle and driver records look up service; fees, costs.
4.741 Salaries of certain state officers, legislators, state board of assessors.
4.746 State research fund; creation; administration, proposals, approval, priority.

Act 277 of 1964

4.760 Vehicle and driver records look up service; fees, costs; photographs.
4.761 Salaries of certain state officers, legislators, state board of assessors.
4.765 State research fund; administration, proposals, approval, priority.

4.1 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Section related to division of the state into senatorial districts.

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Act 46, 1963 (2nd Ex. Ses.), p. 60; Eff. Jan. 1, 1964.

AN ACT to provide for the organization and functions of the commission on legislative apportionment and the adoption of legislative apportionment and districting plans.

The People of the State of Michigan enact:

4.11 Commission on legislative apportionment; number, selection, regional distribution.

Sec. 1. The commission on legislative apportionment established by the 1963 state constitution shall consist of 8 electors, 4 of whom shall be selected by the state central committee of each of the 2 political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25% of such gubernatorial vote, the commission shall consist of 12 members, 4 of whom shall be selected by the state central committee of the third political party. One resident of each of the following 4 regions shall be selected by each state central committee: (a) the Upper Peninsula; (b) the northern part of the Lower Peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (c) southwestern Michigan, those counties south of region (b) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; and (d) southeastern Michigan, the remaining counties of the state.

HISTORY: New 1963, 2nd Ex. Ses., p. 60, Act 46, Eff. Jan. 1, 1964.

4.12 Commission on legislative apportionment; membership eligibility; ineligible for election to legislature.

Sec. 2. No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until 2 years after the apportionment in which they participated becomes effective.

HISTORY: New 1963, 2nd Ex. Ses., p. 60, Act 46, Eff. Jan. 1, 1964.

4.13 Commission on legislative apportionment; appointment, terms, vacancies.

Sec. 3. The commission shall be appointed immediately upon the effective date of this act and also whenever apportionment or districting of the legislature is required by the provisions of the constitution. Members of the commission shall hold office until each apportionment and districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

HISTORY: New 1963, 2nd Ex. Ses., p. 60, Act 46, Eff. Jan. 1, 1964.

4.14 Commission on legislative apportionment; secretary of state; duties; chairman; compensation; travel and other expenses.

Sec. 4. The secretary of state shall be secretary of the commission without vote and shall keep a public record of all its proceedings. He shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman and make its own rules of procedure. Each member of the commission shall receive compensation at the rate of $35.00 per day plus actual and necessary expenses

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while on the business of the commission, in accordance with the provisions of the standard travel regulations issued by the department of administration. Members shall not be reimbursed for more than 20 round trips by the usually traveled route from their residence to the regular meeting place of the commission.

HISTORY: New 1963, 2nd Ex. Ses., p. 60, Act 46, Eff. Jan. 1, 1964.

4.15 Commission on legislative apportionment; convening, completion of work, public hearings, notices.

Sec. 5. Within 30 days after the effective date of this act, and also after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of the constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold at least one public hearing in the state capitol and such other public hearings as they deem appropriate. The commission shall issue appropriate notices of the hearings.

HISTORY: New 1963, 2nd Ex. Ses., p. 61, Act 46, Eff. Jan. 1, 1964.

4.16 Secretary of State; apportionment and districting plan; publication, inclusion in public acts.

Sec. 6. (1) The secretary of state shall publish in pamphlet form each final apportionment and districting plan within 30 days from the date of its adoption by the commission on legislative apportionment. The publications shall contain the plan, suitable maps and tables showing the population and area of each district, and the certificate of the secretary of state as to the date of publication. A final apportionment and districting plan shall become law 60 days after such date of publication.

(2) The secretary of state shall print a sufficient number of the pamphlets to furnish:

(a) To the clerk of the house and the secretary of the senate, 500 copies each.

(b) To each county clerk, 10 copies plus an additional 10 copies for each senatorial or representative district to which the county is entitled under the plan.

(c) To the state central committee of each major political party, 100 copies.

(3) The secretary of state shall include the plan in the bound volume of the public acts of the first regular session following the date on which the plan becomes law.

HISTORY: New 1963, 2nd Ex. Ses., p. 61, Act 46, Eff. Jan. 1, 1964.

4.17 Commission; disagreement on plan; submission to supreme court.

Sec. 7. If a majority of the members of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this act.

HISTORY: New 1963, 2nd Ex. Ses., p. 61, Act 46, Eff. Jan. 1, 1964.

4.18 Elector's application for review of plan, supreme court powers.

Sec. 8. Upon application of any elector filed not later than 60 days after final publication of a plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of the constitution.

HISTORY: New 1963, 2nd Ex. Ses., p. 61, Act 46, Eff. Jan. 1, 1964.

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4.19 Effective date.

Sec. 9. This act shall take effect on January 1, 1964.

HISTORY: New 1963, 2nd Ex. Ses., p. 61, Act 46, Eff. Jan. 1, 1964.

4.20 Repeal.

Sec. 10. Act No. 77 of the Public Acts of 1953, being sections 4.601 and 4.602 of the Compiled Laws of 1948, and Act No. 178 of the Public Acts of 1953, being section 4.31 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1963, 2nd Ex. Ses., p. 61, Act 46, Eff. Jan. 1, 1964.

Act 228, 1943, p. 372; Eff. Jul. 30.

AN ACT to fix the number of representatives in the House of Representatives and to distribute same among the counties of Michigan.

The People of the State of Michigan enact:

4.21 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Section related to division of the state into representative districts.

4.22 Division of county into representative districts.

Sec. 2. The boards of supervisors of each county entitled, under this act, to more than 1 representative, shall, prior to the first day of July, 1944, either at its regular meeting in April or at a special meeting called for that purpose, divide the county into representative districts.

HISTORY: CL 1948, 4.22.

4.31 Repealed. 1963, 2nd Ex. Ses., p. 61, Act 46, Eff. Jan. 1, 1964.

Section related to number and distribution of the state house of representatives.

Act 67, 1877, p. 53; Eff. Aug. 21.

AN ACT relative to the organization of the meetings of the legislature.

The People of the State of Michigan enact:

4.41 Legislature, members elect; delivery of list by secretary of state, time; designation by districts.

Sec. 1. It shall be the duty of the secretary of state on or before the day prior to the first annual regular session of each legislature, to deliver to the secretary, or in case of his death or inability, then to the assistant secretary of the preceding senate, also to the clerk, or in case of his death or inability, then to the journal clerk of the next preceding house of representatives, a true and correct list of all the members elect of each house, as transmitted to him by the clerks of the several counties of the state, and in such list shall designate the senators and representatives by their respective districts.

HISTORY: How. 42;—CL 1897, 4;—CL 1915, 4;—CL 1929, 5;—CL 1948, 4.41;—Am. 1953, p. 58, Act 63, Eff. Oct. 2.

4.42 Convening of legislature, time, organization, temporary rules.

Sec. 2. The members elect of the senate and house of representatives shall convene in their respective houses at the state capitol at Lansing, at 12 o'clock noon on the second Wednesday of January next succeeding their election, and proceed to the organization of their respective houses, in accordance with the provisions of this act, and under the rules of the preceding houses as temporary rules, and no other business shall be in order until they shall have completed such organization.

HISTORY: How. 43;—CL 1897, 5;—CL 1915, 5;—CL 1929, 6;—CL 1948, 4.42;—Am. 1953, p. 58, Act 63, Eff. Oct. 2;—Am. 1955, p. 115, Act 72, Eff. Oct. 14.

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4.43 Lieutenant governor's absence, secretary to preside; roll call.

Sec. 3. In case the lieutenant-governor is absent, or unable to perform the duties of his office, it shall be the duty of the secretary of the preceding senate, to call to order, and preside over the senate, until the lieutenant governor appears, or a president pro tempore is elected, and such secretary shall act as secretary of the senate until his successor is elected; and in calling the roll of the senate before the permanent organization thereof for any purpose whatever he shall call all the names appearing upon the list delivered to him by the secretary of state, as provided for in the preceding section, and he shall not call any other or different names.

HISTORY: How. 44;—CL 1897, 6;—CL 1915, 6;—CL 1929, 7;—CL 1948, 4.43.

4.44 Clerk to preside pending election of speaker; roll call.

Sec. 4. It shall be the duty of the clerk of the next preceding house of representatives to call to order and preside over the house until a speaker, or speaker pro tempore, is elected, and he shall act as clerk of the house until his successor is elected; and in calling the roll of the house before the permanent organization thereof for any purpose whatever, he shall call all the names appearing upon the list delivered to him by the secretary of state, as provided in the first section of this act and he shall not call any other or different names.

HISTORY: How. 45;—CL 1897, 7;—CL 1915, 7;—CL 1929, 8;—CL 1948, 4.44.

4.45 Secretary of senate, clerk of house; vacancies in office.

Sec. 5. In case of a vacancy in the office of the secretary of the senate, or clerk of the house, or of the absence or inability of either to perform the duties imposed by this act, such duties shall devolve upon the assistant secretary of the senate or journal clerk of the house of the next preceding senate or house of representatives. In case of a vacancy during the session of the legislature, such vacancy shall be filled by election of the body where such vacancy occurs. In case of a vacancy, during such time as the legislature is not in session, and before assuming the duties of secretary of the senate or clerk of the house, the assistant secretary or journal clerk, as the case may be, shall take and subscribe to the constitutional oath of office, and shall thereafter be vested with all the powers and duties as secretary of the senate or clerk of the house for the unexpired term, and shall be entitled to the compensation provided by law for said assistant secretary or journal clerk respectively.

HISTORY: How. 46;—CL 1897, 8;—CL 1915, 8;—CL 1929, 9;—Am. 1931, p. 186, Act 116, Eff. Sept. 18;—CL 1948, 4.45.

4.46 Administration of oath of office.

Sec. 6. In case the president of the senate or 1 of the judges of the supreme court cannot attend to administer the oath of office, the officers required by this act to organize meetings of the legislature are hereby authorized to administer the oath of office, prescribed by the constitution of this state, to the members elect of their respective houses.

HISTORY: How. 47;—CL 1897, 9;—CL 1915, 9;—CL 1929, 10;—CL 1948, 4.46.

Act 58, 1893, p. 59; Eff. Aug. 28.

AN ACT to provide for selecting seats for members in the hall of the house of representatives.

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The People of the State of Michigan enact:

4.61 House of representatives; selection of seats by lot, procedure; absent members.

Sec. 1. As a part of the organization of the house of representatives upon the first day of the first regular session of each legislature, the seats in the hall of the house shall be selected by the members in a manner as follows: The clerk shall call the names of the members having the greatest total length of service in the house who shall select a seat. In like manner, the clerk shall call the names of members in the order of their total length of service in the house, who shall select seats of their choice not already selected, down to and including those members commencing their second terms. If there are 2 or more members who have an equal length of service the clerk shall prepare a list of their names and place opposite each name a number, which shall be drawn by lottery as prescribed in this section for members entering their first terms. The clerk shall then prepare a list of members entering upon their first terms, listing the names of such members alphabetically and placing opposite each name numbers in consecutive order from 1, using as many numbers as are necessary. A box shall be provided in which shall be deposited numbered white balls, which shall bear the same numbers as those appearing on said list. A boy or girl, selected by the clerk, then being blindfolded shall draw from the box 1 ball and hand it to the clerk, who shall announce the number on the ball, and the clerk shall call the member's name found on the list opposite the corresponding number, who shall then select a a seat not previously selected. In like manner all members entering upon their first terms shall select seats. Any representative-elect necessarily absent on the first day of the session may, in writing, appoint any representative to select a seat for him, and if no one appears for such absent representative-elect, then the clerk of the house shall make a selection for him, when his name is called.

HISTORY: CL 1897, 10;—CL 1915, 10;—CL 1929, 11;—CL 1948, 4.61;—Am. 1953, p. 24, Act 25, Eff. Oct. 2;—Am. 1955, p. 207, Act 142, Eff. Oct. 14;—Am. 1970, p. 516, Act 168, Imd. Eff. Aug. 3.

R.S. 1846, Ch. 2.

Sec. 1.

HISTORY: CL 1857, 17;—CL 1871, 20;—How. 37;—CL 1897, 34;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. This section related to the exemption of officers of the legislature from arrest on civil process. It is identical with and undoubtedly superseded by Sec. 40, p. 86, of Ch. XIII, of Act 314 of 1915 (Jud. Act). See Compilers' § 613.40.

4.82 Contempts; punishable offenses.

Sec. 2. Each house may punish as a contempt, and by imprisonment, a breach of its privileges, or the privileges of its members, but only for 1 or more of the following offences, to wit: First, The offence of arresting a member or officer of the house, or procuring such member or officer to be arrested, in violation of his privilege from arrest. Second, That of disorderly conduct in the immediate view of the house, and directly tending to interrupt its proceedings. Third, That of refusing to attend, or be examined as a witness, either before the house, or a committee, or before any person authorized by the house, or by a committee, to take testimony in legislative proceedings. Fourth, That of giving or offering a bribe to a member, or of attempting by menace, or other corrupt means, or device directly or indirectly to control or influence a member in giving his vote, or to prevent his giving the same: but the term of imprisonment which such house may impose for any contempt specified in this section shall not extend beyond the same session of the legislature.

HISTORY: CL 1857, 18;—CL 1871, 21;—How. 38;—CL 1897, 35;—CL 1915, 48;—CL 1929, 15;—CL 1948, 4.82.

CONTEMPTS: For provisions regarding contempts of court, see Compilers' § 600.1701 et seq.

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4.83 Contempts; misdemeanor; penalty.

Sec. 3. Every person who shall be guilty of any contempt specified in the preceding section shall also be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the state prison, not exceeding 5 years, or by imprisonment in the county jail, not exceeding 1 year, or by fine, not exceeding 1,000 dollars, or by both such fine and imprisonment in the county jail, in the discretion of the court.

HISTORY: CL 1857, 19;—CL 1871, 22;—How. 39;—CL 1897, 36;—CL 1915, 49;—CL 1929, 16;—CL 1948, 4.83.

4.84 Oath of member.

Sec. 4. The oath of office of any member or officer of the senate or house of representatives, may be administered by, and taken and subscribed before the chancellor, any justice of the supreme court, the lieutenant governor, the president pro tempore of the senate or the speaker of the house of representatives.

HISTORY: CL 1857, 20;—CL 1871, 23;—How. 40;—CL 1897, 37;—CL 1915, 50;—CL 1929, 17;—CL 1948, 4.84.

CHANCELLOR: The office of chancellor was abolished by Act 23 of 1847.

4.85 Oath of witnesses.

Sec. 5. Any senator or representative while acting as a member of a committee of the legislature, or either branch thereof, shall have authority to administer oaths to such persons as shall be examined before the committee of which he is a member.

HISTORY: CL 1857, 21;—CL 1871, 24;—How. 41;—CL 1897, 38;—CL 1915, 51;—CL 1929, 18;—CL 1948, 4.85.

Act 118, 1931, p. 187; Imd. Eff. May 18.

AN ACT to provide for the administration of oaths, subpoena of witnesses and/or examination of certain books and records by committees and commissions of the legislature.

The People of the State of Michigan enact:

4.101 Legislative committees; powers, punishment for contempt.

Sec. 1. Committees and commissions of or appointed by the legislature may by resolution of the legislature be authorized to administer oaths, subpoena witnesses and/or to examine the books and records of any persons, partnerships or corporations involved in a matter properly before any of such committees or commissions. Any witness who neglects or refuses to obey a subpoena of any of such committees or commissions, or who refuses to be sworn or testify, or who fails on demand to produce any papers, books or documents touching any matter under investigation, or any witness or attorney who is guilty of any contempt while in attendance at any hearing before any of such committees or commissions, may be punished as for contempt of the legislature.

HISTORY: CL 1948, 4.101.

Act 127, 1901, p. 175; Eff. Sep. 5.

AN ACT authorizing members of the state legislature to administer oaths, take depositions and acknowledgments.

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The People of the State of Michigan enact:

4.121 Oaths, depositions, acknowledgments; powers of legislators.

Sec. 1. During his term of office, every senator and representative in the state legislature is hereby authorized, by virtue of his office to administer oaths, take depositions and acknowledgments.

HISTORY: CL 1915, 52;—CL 1929, 19;—CL 1948, 4.121.

Act 304, 1913, p. 580; Eff. Aug. 14.

AN ACT requiring the filing of the oaths of office of the members and officers of the legislature, in the office of the secretary of state.

The People of the State of Michigan enact:

4.141 Oaths of office; preservation.

Sec. 1. It is hereby made the duty of the secretary of the senate and the clerk of the house of representatives, of each succeeding session of the legislature, to have the oaths of office of the members and officers of their respective bodies, bound together in a proper volume for filing and record, and present the same to the secretary of state, to be by that officer filed and preserved of record.

HISTORY: CL 1915, 53;—CL 1929, 20;—CL 1948, 4.141.

Act 158, 1897, p. 199; Eff. Aug. 30.

AN ACT to provide for the preservation and perpetuation of the bills and resolutions passed by the legislature.

The People of the State of Michigan enact:

4.161 Bills and resolutions; preservation by printing.

Sec. 1. That all bills and resolutions passed by the legislature to which the signature of the governor in the form of approval is required by the constitution, shall hereafter be preserved by the art of printing and not by being copied or transcribed by the pen.

HISTORY: CL 1897, 39;—CL 1915, 54;—CL 1929, 21;—CL 1948, 4.161.

CONSTITUTION: See Const. IV, 26.

4.162 Bills and resolutions; printing.

Sec. 2. The bills and resolutions of the 2 houses of the legislature, after being duly passed, shall be printed on a grade of pure linen paper, which shall be water-marked with the seal of the state of Michigan so that the water-mark shall appear upon each printed page; and shall be printed in the same style and on the same size of page as the Public Acts of 1931.

HISTORY: CL 1897, 40;—Am. 1911, p. 396, Act 226, Imd. Eff. May 1;—CL 1915, 55;—CL 1929, 22;—Am. 1933, p. 3, Act 1, Imd. Eff. Feb. 9;—CL 1948, 4.162.

4.163 Administration of act.

Sec. 3. It shall be the duty of each house of the legislature to provide by rule or joint rule for the proper carrying out of the provisions in sections 1 and 2 of this act.

HISTORY: CL 1897, 41;—CL 1915, 56;—CL 1929, 23;—CL 1948, 4.163.

Act 150, 1969, p. 300; Eff. Mar. 20, 1970.

AN ACT relative to general property tax legislation.

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The People of the State of Michigan enact:

4.171 Bills affecting local revenues; fiscal note.

Sec. 1. Any bill introduced in the house of representatives or in the state senate which increases or decreases local property taxes or revenues shall have incorporated by the treasury department as a note to the bill a reliable estimate of the amount therein involved.

HISTORY: New 1969, p. 300, Act 150, Eff. Mar. 20, 1970.

Act 18, 1869, p. 24; Imd. Eff. Feb. 24.

AN ACT to provide for paying expenses authorized to be incurred by the legislature.

The People of the State of Michigan enact:

4.181 Witnesses before legislative committees; compensation, mileage allowance.

Sec. 1. Whenever any witness shall be subpoenaed to appear before a committee of the legislature by authority of either branch thereof the compensation of such witness shall be $5.00 for each day, or any portion thereof, and for traveling at the rate of 15 cents per mile in going to the place of attendance to be computed from the residence of such witness, and the amount of compensation due to such witness shall be paid in the same manner as other legislative expenses are paid, out of moneys appropriated to the legislature.

HISTORY: CL 1871, 25;—How. 66;—CL 1897, 14;—CL 1915, 28;—CL 1929, 55;—CL 1948, 4.181;—Am. 1957, p. 20, Act 15, Eff. Sep. 27.

4.182 Committee expenses; payment.

Sec. 2. Any committee of either branch of the legislature visiting any state institution or other place where such visit is authorized by either branch of the legislature, shall be paid only actual and necessary expenses. Such expenses shall be paid in the same manner as other legislative expenses are paid, out of moneys appropriated to the legislature.

HISTORY: CL 1871, 26;—How. 67;—Am. 1891, p. 205, Act 164, Eff. Oct. 2;—CL 1897, 15;—CL 1915, 29;—CL 1929, 56;—CL 1948, 4.182;—Am. 1957, p. 20, Act 15, Eff. Sep. 27.

4.183 Sergeant at arms; traveling expenses for summoning witnesses.

Sec. 3. The sergeant at arms of the respective branches of the legislature shall be allowed no extra compensation for services performed in subpoenaing witnesses to appear before any committee of the legislature other than the sergeant's necessary traveling expenses, which sum shall be paid in the same manner as other legislative expenses are paid, out of moneys appropriated to the legislature.

HISTORY: CL 1871, 27;—How. 68;—CL 1897, 16;—CL 1915, 30;—CL 1929, 57;—CL 1948, 4.183;—Am. 1957, p. 20, Act 15, Eff. Sep. 27.

4.184 Incidental expenses; payment.

Sec. 4. Any or all expenses incidental to the sessions of the legislature, authorized by either branch thereof shall be paid in the same manner as other legislative expenses are paid, out of moneys appropriated to the legislature.

HISTORY: CL 1871, 28;—How. 69;—CL 1897, 17;—CL 1915, 31;—CL 1929, 58;—CL 1948, 4.184;—Am. 1957, p. 20, Act 15, Eff. Sep. 27.

Act 119, 1863, p. 176; Imd. Eff. Mar. 17.

AN ACT to provide for publishing the time when the sessions of the legislature heretofore have ended and hereafter shall end.

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The People of the State of Michigan enact:

4.201 Legislative adjournment dates since 1850; publication.

Sec. 1. That it shall be and hereby is made the duty of the secretary of state to make his certificate, stating the exact date of the end of each and every session of each and every legislature of this state, held since the year 1850 which certificate shall be printed and published with the laws of the present session of the legislature.

HISTORY: CL 1871, 219;—How. 48;—CL 1897, 47;—CL 1915, 61;—CL 1929, 37;—CL 1948, 4.201.

DATES OF ADJOURNMENT: For the effective dates of statutes, see note to Sec. 2 of Ch. 1 of R.S. 1846, between Compilers' §§ 8.1 and 8.3.

4.202 Future legislative adjournment dates; publication.

Sec. 2. It shall be and hereby is made the duty of the secretary of state to make his certificate of the date of the end of the session of the legislature now in session, and of each and every session of the present or any succeeding legislature hereafter to be held which certificate shall be printed and published with the laws of the session of the legislature to which it refers which certificates and each of them so published, as aforesaid, shall be received as prima facie evidence of the facts therein stated in all the courts of this state.

HISTORY: CL 1871, 220;—How. 49;—CL 1897, 48;—CL 1915, 62;—CL 1929, 38;—CL 1948, 4.202.

Act 167, 1943, p. 230; Imd. Eff. Apr. 17.

AN ACT relative to the powers and authority of committees and commissions of the legislature, or either branch thereof, in the interim between sessions of the legislature.

The People of the State of Michigan enact:

4.221 Interim session legislative committees and commissions.

Sec. 1. Committees and commissions of or appointed by the legislature, or either house thereof, may by resolution of the legislature, or either house thereof, perform and exercise such powers and authority in the interim between sessions of the legislature as shall be delegated to such committees or commissions in said resolution or resolutions.

HISTORY: CL 1948, 4.221.

Act 305, 1915, p. 548; Eff. May 19.

AN ACT to prescribe the duties of the legislative service bureau, the secretary of the senate and the clerk of the house of representatives during the interim of sessions of the legislature. Am. 1949, p. 84, Act 76, Imd. Eff. May 10.

The People of the State of Michigan enact:

4.241 Secretary of senate and clerk of house; interim duties.

Sec. 1. The secretary of the senate and the clerk of the house of representatives, at the close of each regular or special session of the legislature, shall compile and prepare for publication, make indexes to, and superintend the publication of the journals and documents of the senate and house of representatives, respectively. They shall also make a compilation and digest of the legislative decisions of the senate and house of representatives, respectively, arrange the same in a convenient form for reference, and shall report the result of their work thereon to the respective houses at the opening of the next regular session of the legislature. They shall have custody and control of the documents of the respective houses, and shall, on request therefor, furnish to members

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of the senate and house of representatives, to state officers, and, in their discretion, to citizens of Michigan and other states, printed copies of bills and joint resolutions, (if there be a sufficient supply of such printed copies on file), and shall furnish typewritten copies of any such documents of which there are not printed copies, upon the payment of the actual cost of typewriting such documents. They shall also, in the interim of the regular sessions of the legislature, prepare and have bound complete files of all printed bills and joint resolutions, and all enrolled bills of their respective houses; 2 copies of which, when bound, shall be kept in their respective offices, and 1 copy of which shall be delivered to the office services division of the department of administration to be preserved in a state record center located in Lansing, Michigan. They shall also, in the interim of the regular sessions of the legislature, prepare, so far as is possible, the legislative handbook for the next regular session of the legislature, to the end that such handbooks may be ready for printing and distribution at the earliest possible date after the convening of the legislature in regular session. They shall also revise the rules of the senate and house of representatives, and shall present to their respective houses, at the opening of the next regular session of the legislature, the revision of the rules of procedure for consideration of the senate and house of representatives. They shall also furnish to the members of the senate and house of representatives, upon request therefor, assistance in the drafting of bills and joint resolutions and information in regard to matters of legislation. They shall also prepare a digest of the practice and procedure in the senate and house of representatives, respectively, together with a digest of the constitutional and statutory provisions relating thereto. The secretary of the senate and the clerk of the house of representatives shall also perform such other duties and do such other things as shall, in their judgment, tend to expedite and make more uniform the work of the legislature while in session.

HISTORY: Passed over veto May 19, 1915, and was given immediate effect. CL 1915, 17;—CL 1929, 12;—CL 1948, 4.241;—Am. 1953, p. 31, Act 36, Eff. Oct. 2.

4.242 Repealed. 1961, p. 26, Act 24, Imd. Eff. May 10.

Section required publication of a township officers' guide.

Secs. 3-5.

HISTORY: CL 1915, 19-21;—Sec. 3, Am. 1917, p. 893, Act 367, Imd. Eff. May 11;—Rep. 1929, p. 9, Act 3, Imd. Eff. Feb. 8. These sections contained provisions relating to the salary of the secretary of the senate and clerk of the house, appropriation and tax clauses. Salaries are now fixed by the rules of the senate and house.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1915, 22;—CL 1929, 14;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

4.301-4.306 Repealed. 1957, p. 152, Act 133, Eff. Sep. 27;—1965, p. 231, Act 144, Imd. Eff. Jul. 12;—1965, p. 838, Act 412, Eff. Jan. 1, 1966.

Sections related to legislative service bureau.

Act 412, 1965, p. 835; Eff. Jan. 1, 1966.

AN ACT to create the legislative council; to prescribe its membership, powers and duties; to create a legislative service bureau to provide staff services to the legislature and the council; to create a law revision commission; to create a legislative fiscal agency; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

4.311 Short title; legislative council act.

Sec. 1. This act shall be known and may be cited as the "legislative council act".

HISTORY: New 1965, p. 835, Act 412, Eff. Jan. 1, 1966.

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4.312 Definitions.

Sec. 2. As used in this act:

(a) "Council" means the legislative council.

(b) "Bureau" means the legislative service bureau.

(c) "Commission" means the law revision commission.

HISTORY: New 1965, p. 835, Act 412, Eff. Jan. 1, 1966.

4.313 Legislative council; membership, appointment, removal, vacancies, terms, expenses.

Sec. 3. There is created within the legislative branch of state government a bipartisan legislative council to consist of the majority leader and 6 other members of the house to be appointed by the speaker, not less than 2 of whom shall be members of the minority party, and the majority leader of the senate and 6 other members of the senate to be appointed in the same manner as standing committees are appointed, not less than 2 of whom shall be members of the minority party. Members shall be appointed or removed in the same manner as members of standing committees are appointed or removed in each house. Vacancies shall be filled in the same manner as original appointments. Members shall serve terms concurrent with their term in the legislature and until their successors are appointed and qualified. Members of the council shall be entitled to reimbursement for expenses incurred in the administration of their duties.

HISTORY: New 1965, p. 835, Act 412, Eff. Jan. 1, 1966;—Am. 1969, p. 15, Act 11, Imd. Eff. May 7.

4.314 Legislative council; chairman and vice chairman; meetings, rules, quorum, reports, oaths, subpoenas, witnesses, examination of books and papers; subcommittee creation and compensation.

Sec. 4. Annually the council shall elect from its membership a chairman and vice chairman who shall be from different houses. The chairmanship shall alternate between the senate and the house of representatives. The council shall meet at least quarterly, but special meetings shall be held on call of the chairman or a majority of the members of council. The council shall prescribe rules for its own procedure. A majority of the council constitutes a quorum but a smaller number may transact routine business and receive reports from the staff. A majority of the membership shall concur in any recommendation of the council. The council shall report its findings and recommendations to the legislature on or before December 15 of each year, and may accompany its report with proposed bills to carry out any of its recommendations. The chairman of the council or any member designated by him, upon majority vote of the council may administer oaths, subpoena witnesses and examine books and records of any persons, partnerships or corporations involved in a matter properly before the council. The council may create subcommittees which may include members of the legislature who are not members of the council. Non-council members of subcommittees shall be entitled to the same reimbursement of expenses and compensation as members of the council.

HISTORY: New 1965, p. 835, Act 412, Eff. Jan. 1, 1966.

4.315 Legislative service bureau; director; appointment, qualifications, compensation.

Sec. 5. The council shall maintain bill drafting, research and other services for the members of the legislature in a bureau to be known as the legislative service bureau which is hereby created. The bureau shall consist of a legislative reference library, a research section and a statute revision section. The council shall appoint a director of

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the legislative service bureau who shall serve at the pleasure of the council. The director shall devote his full time to the duties of his office, shall be qualified by experience and ability to conduct the work of his office and shall receive such compensation as fixed by the council.

HISTORY: New 1965, p. 836, Act 412, Eff. Jan. 1, 1966.

4.316 Legislative service bureau director; duties.

Sec. 6. The director shall be the secretary of the council and chief administrative officer of the bureau. With the approval of the council, the director shall employ such employees as may be necessary and fix their compensation within the appropriation made by the legislature for this purpose. The director shall have charge of the routine management of the bureau and may incur such expenses as may be necessary for carrying out the provisions of this act, to be paid out of appropriations made by the legislature for the operation of the bureau. The council shall be responsible for the general program and policies of the bureau and for the preparation and enforcement of rules and regulations concerning the services to be rendered.

HISTORY: New 1965, p. 836, Act 412, Eff. Jan. 1, 1966.

4.317 Legislative reference library; research and technical assistance.

Sec. 7. The bureau shall maintain a legislative reference library containing material which may be of use in connection with legislation. Upon request, the bureau shall furnish research services to members of the legislature. The bureau shall furnish such technical and other assistance to legislative committees as may be authorized by the council.

HISTORY: New 1965, p. 836, Act 412, Eff. Jan. 1, 1966.

4.318 Bill drafting; publication of statutes and session laws.

Sec. 8. The bureau shall:

(a) At the request of the members of the legislature draft bills and resolutions or amendments to bills and resolutions, and examine, check and compare pending bills with other pending bills and existing laws to avoid so far as possible contrary or conflicting provisions.

(b) Prepare a definite plan for the order, classification, arrangement, printing and binding of the statutes and session laws.

(c) Prepare catchlines, indexes and tables for the public and local acts of each session of the legislature.

HISTORY: New 1965, p. 836, Act 412, Eff. Jan. 1, 1966.

4.319 Secretariat for commission on intergovernmental cooperation; commissioners on uniform state laws; meetings, reports, expenses.

Sec. 9. The bureau shall be the secretariat for the commission on intergovernmental cooperation created by Act No. 232 of the Public Acts of 1941, as amended. The council shall appoint 3 suitable persons who with the director of the bureau or his staff representative shall be the commissioners on uniform state laws for this state. The commissioners may meet and confer with commissioners of other states to bring about uniformity of state laws and shall report to the council annually. The expenses of the commissioners shall be paid from appropriations made to the council upon vouchers approved by it.

HISTORY: New 1965, p. 836, Act 412, Eff. Jan. 1, 1966.

4.320 Employees not to urge or oppose legislation; duties; confidentiality of requests.

Sec. 10. No employee of the bureau shall urge or oppose legislation but upon request shall aid and assist the members of the legislature by advising as to bills and resolutions and by furnishing to them the fullest information upon all matters within the

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scope of the bureau relating to their public duties. No employee of the bureau shall reveal to any person outside the bureau the contents or nature of any matter not yet published without the consent of the person bringing the matter before the bureau.

HISTORY: New 1965, p. 837, Act 412, Eff. Jan. 1, 1966.

4.321 Maintenance of text of statutes, constitution and index; use of statutory materials for departmental publications.

Sec. 11. The bureau shall maintain the text of the statutes, the constitution, the index and other matter included in the compiled laws and make the same conform to the statutes and constitution as thereafter added, altered, repealed or amended. The bureau shall preserve such parts of the catchlines, indexes and tables prepared for the public and local acts as may be useful in maintaining the general statutes contained in the compilation. Any of the materials so maintained, by agreement made with the director upon approval of the council, may be used in the publication for any department or agency of the state or political subdivisions thereof of such portions of the constitution and statutes as may be agreed upon.

HISTORY: New 1965, p. 837, Act 412, Eff. Jan. 1, 1966.

4.322 Law revision commission; membership, appointment, terms, vacancies, chairman; qualifications.

Sec. 12. The law revision commission is created to consist of the chairman of the committees on judiciary of the senate and house of representatives and the ranking minority member of each of such committees, and the director of the legislative service bureau, all of whom shall be members ex officio, and 4 additional members, who shall not be members of the legislature and who are to be appointed by the legislative council. The members first appointed by the legislative council shall be appointed for such terms that the term of 1 member will expire on each succeeding December 31. The term of a member thereafter appointed, except to fill a vacancy occurring otherwise than by expiration of term, shall be 4 years from the expiration of the term of his predecessor. A vacancy in the office of a member appointed by the legislative council occurring otherwise than by expiration of term, shall be filled by the legislative council for the remainder only of the term. The legislative council shall designate 1 of the appointed members as chairman of the commission. At least 3 members appointed by the legislative council shall be attorneys admitted to practice in the courts of this state.

HISTORY: New 1965, p. 837, Act 412, Eff. Jan. 1, 1966.

4.323 Law revision commission members; salary, expenses; employees; duties, compensation.

Sec. 13. Each member of the commission, other than the ex officio members, shall receive an annual salary of $6,000.00 and all members shall be reimbursed their actual and necessary expenses incurred in the performance of their official duties. The commission may appoint such employees as may be needed, prescribe their duties, and fix their compensation within the amount appropriated for the commission.

HISTORY: New 1965, p. 837, Act 412, Eff. Jan. 1, 1966.

4.324 Law revision commission; duties, reports of findings and recommendations.

Sec. 14. The law revision commission shall:

(a) Examine the common law and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms.

(b) Receive and consider proposed changes in the law recommended by the American law institute, the national conference of commissioners on uniform state laws, any bar association or other learned bodies.

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(c) Receive and consider suggestions from justices, judges, legislators and other public officials, lawyers and the public generally as to defects and anachronisms in the law.

(d) Recommend, from time to time, such changes in the law as it deems necessary in order to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state, civil and criminal, into harmony with modern conditions.

(e) Report its findings and recommendations from time to time to the legislative council and annually, on or before January 1 of each year, to the legislature, and, if it deems advisable, to accompany its report with proposed bills to carry out any of its recommendations.

HISTORY: New 1965, p. 837, Act 412, Eff. Jan. 1, 1966.

4.325 Repeals.

Sec. 15. Act No. 196 of the Public Acts of 1909, as amended, being sections 8.51 to 8.55 of the Compiled Laws of 1948, and Act No. 383 of the Public Acts of 1941, as amended, being sections 4.301 to 4.305 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1965, p. 838, Act 412, Eff. Jan 1, 1966.

4.326 Fiscal agency; creation, governing committee, members.

Sec. 16. There is created an agency to be known as the fiscal agency to be of service to the appropriations committee of the senate. It shall be governed by a committee of 3 members, including the chairman and 2 other members of the committee to be appointed by the chairman, 1 from the minority party.

HISTORY: New 1965, p. 838, Act 412, Eff. Jan. 1, 1966.

4.327 Effective date.

Sec. 17. This act shall take effect January 1, 1966.

HISTORY: New 1965, p. 838, Act 412, Eff. Jan. 1, 1966.

Act 214, 1947, p. 313; Eff. Oct. 11.

AN ACT to license legislative agents, and to regulate their activities; to prescribe the powers and duties of certain state officials with respect thereto; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

4.401 Legislative agent; definition.

Sec. 1. The term "legislative agent" as used in this act shall be construed to mean a person who is employed by a person, firm, association, or corporation; or by any board, department, or agency of the state of Michigan, or any political subdivision thereof, to engage in promoting, advocating, or opposing any matter pending before either house of the legislature or any committee thereof, or who is employed expressly for the purpose of promoting, advocating, or opposing any matter which might legally come before either house of the legislature or any committee thereof.

HISTORY: CL 1948, 4.401.

4.402 Advocating, promoting, and opposing; definition.

Sec. 2. The terms "advocating," "promoting," and "opposing" shall be construed to mean any act or acts, performed directly with a member of the legislature, for the purpose of influencing him to vote or to use his influence for or against any matter pending before either house of the legislature or any committee thereof.

HISTORY: CL 1948, 4.402.

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4.403 Legislative agent; persons not so deemed.

Sec. 3. Any person who shall confine his activities in promoting, advocating or opposing any matter pending before either house of the legislature or any committee thereof, to written communications or to formal appearances before any legislative committee or committees to which such matter has been duly referred, and who in writing clearly identifies himself to the committee together with each and every person, firm, association, corporation, or other interest represented by him, shall not be deemed to be a legislative agent within the meaning of this act; neither shall such term include any person whose contact with the legislature is limited to furnishing information at the request of any legislator or legislative committee regarding any matter pending before either house of the legislature or any committee thereof.

HISTORY: CL 1948, 4.403.

4.404 Legislative agent; filing of statement, contents; secretary of state, duties; inspection of records.

Sec. 4. Every person retained or employed as a legislative agent by any person, firm, corporation or association to promote or oppose the passage of bills or resolutions in each and every year, before any service is entered upon in promoting or opposing such legislation, shall file with the secretary of state on forms provided by that office, a sworn statement containing the following information:

1. Full name of applicant, place of residence and place of business.

2. Name of firm, corporation, association or governmental agency of which he is an employee, partner or owner, together with the position held, business address and principal occupation of the firm of which applicant is an employee.

3. If the applicant mentioned in (2) is employed by more than 1 person, firm, corporation, association, or agency, the names of such persons, firms, corporations, associations or agencies, business addresses, and principal occupation or occupations.

4. The name and address of the person, firm, corporation, association or agency who will keep the custody and control of the accounts and records required to be kept by section 3 of this act.

5. When any change, modification or addition to such employment is made, the applicant shall, within 1 week of such change, modification or addition, furnish full information regarding the same to the secretary of state on forms provided by that office.

The secretary of state shall immediately record and index in his office, the information required by this section, and shall furnish copies thereof to all members of the legislature. The records required to be kept by the provisions of this section shall be open to inspection at any time during the regular business hours of the secretary of state.

HISTORY: CL 1948, 4.404;—Am. 1958, p. 216, Act 187, Eff. Sep. 13.

4.405 Legislative agent; certificate; issuance, evidence of compliance.

Sec. 5. Upon application and payment of the fee hereinafter prescribed, the secretary of state shall issue to the applicant hereunder, a certificate showing the name and business address of the person to whom such certificate is issued. Certificates issued by the secretary of state in accordance with the provisions of this act shall be prima facie evidence of compliance with the registration requirements hereof.

HISTORY: CL 1948, 4.405.

4.406 Legislative agent; expense and payment records; keeping, production on subpoena.

Sec. 6. Every legislative agent, or his employer, or an agent appointed by either, shall keep in his custody and control at an office in this state, the address of which shall be filed with the secretary of state in accordance with section 4 of this act, a rec-

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ord of all expenses incurred and paid pursuant to his employment as legislative agent, together with records of all compensation payments to him for his services. Such records shall be kept for a period of 6 years immediately following the final adjournment of each legislative session in which he is employed as a legislative agent. All such accounts and records shall be produced by such legislative agent, or his employer, or an agent appointed by either, upon subpoena issued by a court of competent jurisdiction or by a legislative committee created and authorized by a concurrent resolution of the legislature.

HISTORY: CL 1948, 4.406;—Am. 1958, p. 217, Act 187, Eff. Sep. 13.

4.407 Legislative agent; financial transactions with legislators, statement, contents, penalty for failure to file, penalty; copy to legislator.

Sec. 7. Any legislative agent who, in his capacity as such, has any financial transaction with any member of the legislature, shall within 5 days from the date thereof, file a sworn statement with the secretary of state giving in detail the nature of the transaction together with the name of the member of the legislature. If he fails to file such affidavit he shall be guilty of a felony. Upon receipt of any such sworn statement, it shall be the duty of the secretary of state to forthwith furnish a copy of said statement to the member of the legislature mentioned therein.

HISTORY: CL 1948, 4.407.

4.408 Legislative agent; contingent compensation prohibited.

Sec. 8. No person shall be employed as legislative agent for a compensation dependent upon the passage, amendment or defeat of any proposed legislation or amendment thereof, or upon any other contingency connected with the action of either house of the legislature or any committee thereof.

HISTORY: CL 1948, 4.408.

4.409 Legislative agent; certificate fee, collection, and disposition.

Sec. 9. Before the secretary of state shall issue to any person a certificate as required in section 5 of this act, he shall collect from each applicant, the sum of $5.00 as a fee for filing the statement herein required. Such certificate shall become invalid after December 31 of the year in which it is issued. All money received from such applications shall be paid into the state treasury and shall be credited to the general fund.

HISTORY: CL 1948, 4.409;—Am. 1958, p. 217, Act 187, Eff. Sep. 13.

4.410 Legislative agent; violation of act, penalty; duty of attorney general.

Sec. 10. Any person who shall violate any provision of this act shall be guilty of a felony, and upon conviction thereof, shall be fined not less than $200.00 nor more than $1,000.00, or imprisoned for not less than 3 months nor for more than 1 year. It shall be the duty of the attorney general to prosecute all violations of this act.

HISTORY: CL 1948, 4.410.

4.501-4.508 Repealed. 1948, 2nd Ex. Ses., p. 12, Act 5, Eff. Jan. 1, 1949.

Sections related to compensation, mileage and expenses of legislators and president of the senate.

Act 5, 1948 (2nd Ex. Ses.), p. 11; Eff. Jan. 1, 1949.

AN ACT to provide for the payment of compensation, mileage and expenses of the members of the legislature. Am. 1966, p. 524, Act 309, Eff. Jan. 1, 1967.

The People of the State of Michigan enact:

4.511 Legislators; definitions.

Sec. 1. As used in this act:

(a) "Compensation" means salaries.

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(b) "Mileage" means cost of transportation via the shortest traveled route either by train, bus or private automobile from the residence of the legislator to Lansing.

(c) "Expenses" means expenses incurred by the legislator in connection with the discharge of his official duties.

HISTORY: New 1948, 2nd Ex. Ses., p. 11, Act 5, Eff. Jan. 1, 1949;—Am. 1966, p. 525, Act 309, Eff. Jan. 1, 1967.

STATE OFFICERS' COMPENSATION COMMISSION: Act 357, 1968, p. 692, Eff. Sept. 20, prescribed the powers and duties of the state officers' compensation commission. See Compiled Law § 15.211 et seq., particularly §§ 15.216 and 15.217 relating to determination of salaries and expense allowances of members of the legislature.

4.512 Compensation.

Sec. 2. The compensation for services of the members of the legislature shall be $12,500.00 per annum during the term for which they are elected.

HISTORY: New 1948, 2nd Ex. Ses., p. 11, Act 5, Eff. Jan. 1, 1949;—Am. 1951, p. 412, Act 256, Eff. Sep. 28, —Am. 1960, p. 242, Act 158, Eff. Aug. 17.—Am. 1966, p. 525, Act 309, Eff. Jan. 1, 1967.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

4.513 Mileage.

Sec. 3. The members of the legislature shall receive mileage at the rate prescribed in the joint rules of the senate and house of representatives for 2 round trips each month during each regular and extra session of the legislature.

HISTORY: New 1948, 2nd Ex. Ses., p. 11, Act 5, Eff. Jan. 1, 1949;—Am. 1960, p. 242, Act 158, Eff. Aug. 17.—Am. 1966, p. 525, Act 309, Eff. Jan. 1, 1967.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

4.514 Copies of documents; insurance benefits; expense allowance for members, house speaker.

Sec. 4. Each member of the legislature shall receive, at the expense of the state, 1 copy of the laws, journals and documents of the house of which he is a member and the same insurance benefits as are provided for classified state employees; and an expense allowance of $2,500.00 per annum. The speaker of the house of representatives shall receive an additional expense allowance of $5,000.00.

HISTORY: New 1948, 2nd Ex. Ses., p. 11, Act 5, Eff. Jan. 1, 1949;—Am. 1951, p. 412, Act 256, Eff. Sep. 28;—Am. 1960, p. 242, Act 158, Eff. Aug. 17.—Am. 1966, p. 525, Act 309, Eff. Jan. 1, 1967.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

4.515 Payment of compensation, mileage and expenses.

Sec. 5. The compensation, mileage and expense allowance shall be paid out of appropriations made for the expenses of the legislature, in accordance with the accounting laws of the state and as provided in the joint rules of the senate and house of representatives.

HISTORY: New 1948, 2nd Ex. Ses., p. 11, Act 5, Eff. Jan. 1, 1949;—Am. 1966, p. 525, Act 309, Eff. Jan. 1, 1967.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

4.516–4.518 Repealed. 1966, p. 525, Act 309, Eff. Jan. 1, 1967.

Sections related to compensation and expenses of legislators.

Act 215, 1954, p. 579; Imd. Eff. May 11.

AN ACT to make appropriations for various state departments, commissions, boards, agencies and certain state purposes related to general government for the fiscal year ending June 30, 1955; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for services of the members of the legislature and the president of the senate for the year 1955 and each year thereafter; and to declare the effect of this act.

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The People of the State of Michigan enact:

4.532 Compensation; members, president of senate.

Sec. 12. Commencing in the year 1955 the compensation for services of members of the legislature and the president of the senate shall be $4,000.00 per annum during the term for which they are elected, the provisions of any other act to the contrary notwithstanding.

HISTORY: New 1954, p. 593, Act 215, Imd. Eff. May 11.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

Act 46, 1952, p. 46; Eff. Sep. 18.

AN ACT to provide for the inspection by committees of the legislature of the records and files of state departments, boards, institutions and agencies.

The People of the State of Michigan enact:

4.541 Legislative committees; inspection of records and files of state departments, boards, institutions, and agencies; subpoena duces tecum.

Sec. 1. Notwithstanding any other provision of law to the contrary, any standing or select committee of the senate or the house of representatives, and any joint select committee of the senate and house of representatives, shall be authorized to subpoena and have produced before any such committee, or inspect the records and files of any state department, board, institution or agency; and it shall be the duty of any state department, board, institution or agency to produce before the committee as required by the subpoena, or permit the members of any such committee to inspect its records and files. Such records and files shall be subpoenaed, examined or used only in connection with the jurisdiction and purposes for which the committee was created.

HISTORY: New 1952, p. 46, Act 46, Eff. Sep. 18.

Act 279, 1955, p. 684; Imd. Eff. Jun. 30.

AN ACT to make appropriations for various state departments, commissions, boards, agencies and certain state purposes related to general government for the fiscal year ending June 30, 1956; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for services of the members of the legislature and the president of the senate for the year 1956 and each year thereafter; and to declare the effect of this act.

The People of the State of Michigan enact:

4.561 Compensation; members, president of senate.

Sec. 11. Commencing in the year 1955 the compensation for services of members of the legislature and the president of the senate shall be $4,000.00 per annum during the term for which they are elected, the provisions of any other act to the contrary notwithstanding.

HISTORY: New 1955, p. 696, Act 279, Imd. Eff. Jun. 30.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

Act 210, 1956, p. 428; Imd. Eff. Apr. 27.

AN ACT to make appropriations for various state departments, commissions, boards, agencies and certain state purposes related to general government for the fis-

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cal year ending June 30, 1957; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for services of the members of the legislature and the president of the senate for the year 1957 and each year thereafter; and to declare the effect of this act.

The People of the State of Michigan enact:

4.580 Compensation; members, president of senate.

Sec. 10. The compensation for services of members of the legislature and president of the senate shall be $4,000.00 per annum during the term for which they are elected, as provided by section 12, of Act No. 215 of the Public Acts of 1954, the provision of any other act to the contrary notwithstanding.

HISTORY: New 1956, p. 441, Act 210, Imd. Eff. Apr. 27.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

4.601, 4.602 Repealed. 1963, 2nd Ex. Ses., p. 61, Act 46, Eff. Jan. 1, 1964.

Sections related to county boards of supervisors' duties in arranging legislative districts.

Act 305, 1957, p. 512; Imd. Eff. Jun. 19.

AN ACT to make appropriations for various state departments, commissions, boards, agencies and certain state purposes related to general government for the fiscal year ending June 30, 1958; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for services of the members of the legislature and the president of the senate for the year 1958 and for each year thereafter; and to declare the effect of this act.

The People of the State of Michigan enact:

4.630 Compensation; members, president of senate.

Sec. 10. The compensation for services of members of the legislature and president of the senate shall be $4,000.00 per annum during the term for which they are elected, as provided by section 12, of Act No. 215 of the Public Acts of 1954, the provision of any other act to the contrary notwithstanding.

HISTORY: New 1957, p. 525, Act 305, Imd. Eff. Jun. 19.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

Act 225, 1958, p. 342; Imd. Eff. May 11.

AN ACT to make appropriations for various state departments, commissions, boards, agencies, and certain state purposes related to general government for the fiscal year ending June 30, 1959; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for services of the members of the legislature and the president of the senate for the year 1959 and for each year thereafter; and to declare the effect of this act.

The People of the State of Michigan enact:

4.649 Compensation; members, president of senate.

Sec. 9. The compensation for services of members of the legislature and president of the senate shall be $4,000.00 per annum during the term for which they are elected, as

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provided by section 12, of Act No. 215 of the Public Acts of 1954, the provisions of any other act to the contrary notwithstanding.

HISTORY: New 1958, p. 351, Act 225, Imd. Eff. May 11.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

Act 139, 1959, p. 170; Imd. Eff. Jul. 15.

AN ACT to make appropriations for various state departments, commissions, boards, agencies, and certain state purposes related to general government for the fiscal year ending June 30, 1960; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for services of the members of the legislature and the president of the senate for the year 1960 and for each year thereafter; and to declare the effect of this act.

The People of the State of Michigan enact:

4.669 Compensation; members, president of senate.

Sec. 9. The compensation for services of members of the legislature and president of the senate shall be $4,000.00 per annum during the term for which they are elected, as provided by section 12, of Act No. 215 of the Public Acts of 1954, the provisions of any other act to the contrary notwithstanding.

HISTORY: New 1959, p. 179, Act 139, Imd. Eff. Jul. 15.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.511.

Act 162, 1960, p. 267; Imd. Eff. May 23.

AN ACT to make appropriations for various state departments, commissions, boards, agencies, and certain state purposes related to general government for the fiscal year ending June 30, 1961; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for services of the members of the legislature, the president of the senate and certain state officers for the year 1961 and for each year thereafter; and to declare the effect of this act.

The People of the State of Michigan enact:

4.689 Department of administration; study of data processing equipment use.

Sec. 9. The department of administration is hereby directed and authorized to employ an independent qualified management analysis firm to make a thorough study of all punched cards and other large data processing of state agencies in the Lansing area at a cost not to exceed $50,000.00, the charges to be distributed on an equitable basis to the several agencies studied. A full report of this study shall be made to the legislature in January 1961, together with such recommendations as are necessary to bring about efficient, economical and progressive use of all punched card and other data processing equipment by state agencies in the Lansing area.

Compensation of members of the legislature and president of the senate.

The compensation for services of members of the legislature and president of the senate shall be $4,000.00 per annum until the end of calendar year 1960.

Certain elective state officers, compensation.

Commencing in the year 1961 the governor, secretary of state, state treasurer, auditor general and attorney general shall receive the following compensation for all serv-

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ices performed and expenses incurred during his term of office, the provisions of any other act to the contrary notwithstanding.

The governor shall receive an annual compensation of $27,500.00. The secretary of state, state treasurer, auditor general and attorney general shall each receive an annual compensation of $17,500.00.

HISTORY: New 1960, p. 276, Act 162, Imd. Eff. May 23.

STATE OFFICERS' COMPENSATION COMMISSION: Act 357, 1968, p. 692, Eff. Sept. 20, prescribed the powers and duties of the state officers' compensation commission. See Compiled Law § 15.211 et seq., particularly §§ 15.216 and 15.217 relating to determination of salaries and expense allowances of the governor and members of the legislature.

Act 194, 1961, p. 298; Imd. Eff. Jun. 6.

AN ACT to make appropriations for various state departments, commissions, boards, agencies, and certain state purposes related to general government for the fiscal year ending June 30, 1962; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for certain state officers for the year 1962 and for each year thereafter; and to declare the effect of this act.

The People of the State of Michigan enact:

4.698 Salaries of state officers.

Sec. 8. Commencing in the year 1961 the governor, secretary of state, state treasurer, auditor general and attorney general shall receive the following compensation for all services performed and expenses incurred during his term of office, the provisions of any other act to the contrary notwithstanding.

The governor shall receive an annual compensation of $27,500.00. The secretary of state, state treasurer, auditor general and attorney general shall each receive an annual compensation of $17,500.00.

HISTORY: New 1961, p. 307, Act 194, Imd. Eff. Jun. 6.

STATE OFFICERS' COMPENSATION COMMISSION: Act 357, 1968, p. 692, Eff. Sept. 20, prescribed the powers and duties of the state officers' compensation commission. See Compiled Law § 15.211 et seq., particularly sections 15.216 and 15.217 relating to determination of salary and expense allowance of the governor.

4.702 Legislative audit commission; creation, duties, meetings.

Sec. 12. To aid the legislature in making appropriations for state functions, a legislative audit commission, within the structure of the legislative service bureau, is created. The commission shall ascertain facts, review reports and take action thereon, and make recommendations and reports to the legislature concerning the audit, revenues and expenditures of the state and its agencies and such related matters as may be directed by the legislature or either house thereof. The commission may meet, act and conduct its business at any place within the state, during the sessions of the legislature or in the interim between sessions.

Same; membership, compensation, expenses; meetings.

The commission shall consist of 5 members of the senate and 5 members of the house, appointed in the same manner as standing committees are appointed. Two members of the commission from each house shall be members of the minority party. Members of the commission shall serve without compensation but shall be reimbursed for expenses incurred in the administration of their duties, which expenses shall be paid from the appropriation made to the legislative service bureau in an amount not to exceed $5,000.00. The commission shall meet at least quarterly, but special meetings shall be had on call of the chairman or any 3 members.

Reports; studies.

The commission shall receive the reports of the auditor general and other financial statements and shall initiate appropriate legislative action to correct deficiencies noted

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in these reports. The commission may initiate and supervise special studies and investigations of governmental organization, agencies and operations through the use of existing agencies or through the use of consultants or other special staffs. The commission shall report its activities to the legislature, including such remedial measures as it deems to be necessary. The report of the commission shall be made to each member of the legislature not less often than annually and not later than January 15, in each year.

Investigations.

The presiding officer of the commission or any person designated by him, upon majority vote of the commission, may administer oaths or affirmations and summon and compel the attendance before the commission and examine under oath any person connected either directly or indirectly with any transaction with state agencies or any other person having information regarding the conditions, affairs, management, administration or methods involved in such financial transactions or fiscal matters. The commission may similarly require any person having in his possession any records, books, papers, contracts or other documents pertinent to such matters or transactions to surrender the same or to otherwise afford the commission access thereto.

HISTORY: New 1961, p. 306, Act 194, Imd. Eff. Jun. 6.

SIMILAR PROVISIONS: Similar provisions were set out in Compiled Law §§ 4.303a and 4.721. Section 4.303a was repealed by P.A. 1965, No. 144, p. 231, Imd. Eff. July 12.

Act 241, 1962, p. 576; Imd. Eff. Jul. 23.

AN ACT to make appropriations for various state departments, commissions, boards, agencies, and certain state purposes related to general government for the fiscal year ending June 30, 1963; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for certain state officers for the year 1962 and for each year thereafter; and to declare the effect of this act.

The People of the State of Michigan enact:

4.718 Salaries of state officers, legislators.

Sec. 8. Commencing in the year 1961 the governor, secretary of state, state treasurer, auditor general and attorney general shall receive the following compensation for all services performed and expenses incurred during his term of office, the provisions of any other act to the contrary notwithstanding.

The governor shall receive an annual compensation of $27,500.00. The secretary of state, state treasurer, auditor general and attorney general shall each receive an annual compensation of $17,500.00.

Commencing in the year 1963, the compensation for services for members of the legislature and the president of the senate shall be $7,000.00 per annum during the term for which they are elected in addition to other payments provided by law.

HISTORY: New 1962, p. 585, Act 241, Imd. Eff. Jul. 23.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.689.

4.721 Legislative audit commission; creation, duties, meetings, employees.

Sec. 11. To aid the legislature in making appropriations for state functions, a legislative audit commission, within the structure of the legislative service bureau, is created. The commission shall ascertain facts, review reports and take action thereon, and make recommendations and reports to the legislature concerning the audit, revenues and expenditures of the state and its agencies and such related matters as may be directed by the legislature or either house thereof. The commission may meet, act and conduct its business at any place within the state, during the sessions of the legislature

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or in the interim between sessions. The commission shall hire such employees as may be necessary to carry out the duties imposed by this section and fix their compensation within the appropriation made by the legislature for the operation of the commission.

Same; members, compensation, expenses, meetings.

The commission shall consist of 5 members of the senate and 5 members of the house, appointed in the same manner as standing committees are appointed. Two members of the commission from each house shall be members of the minority party. Members of the commission shall serve without compensation but shall be reimbursed for expenses incurred in the administration of their duties, which expenses shall be paid from the appropriation made to the legislative audit commission in an amount not to exceed $5,000.00. The commission shall meet at least quarterly, but special meetings shall be had on call of the chairman or any 3 members.

Same; reports.

The commission shall receive the reports of the auditor general and other financial statements and shall initiate appropriate legislative action to correct deficiencies noted in these reports. The commission may initiate and supervise special studies and investigations of governmental organizations, agencies and operations through the use of existing agencies or through the use of consultants or other special staffs. The commission shall report its activities to the legislature, including such remedial measures as it deems to be necessary. The report of the commission shall be made to each member of the legislature not less often than annually and not later than January 15, in each year.

Same; oaths; access to documents.

The presiding officer of the commission or any person designated by him, upon majority vote of the commission, may administer oaths or affirmations and summon and compel the attendance before the commission and examine under oath any person connected either directly or indirectly with any transaction with state agencies or any other person having information regarding the conditions, affairs, management, administration or methods involved in such financial transactions or fiscal matters. The commission may similarly require any person having in his possession any records, books, papers, contracts or other documents pertinent to such matters or transactions to surrender the same or to otherwise afford the commission access thereto.

The enrolled act was presented to the Governor on July 11, 1962 and became a law without his approval upon the expiration of 10 days, Sundays excepted, after presentation.

HISTORY: New 1962, p. 586, Act 241, Imd. Eff. Jul. 23.

SIMILAR PROVISIONS: Similar provisions were set out in Compiled Law §§ 4.303a and 4.702. Section 4.303a was repealed by P.A. 1965, No. 144, p. 231, Imd. Eff. July 12.

Act 230, 1963, p. 382; Imd. Eff. May 23.

AN ACT to make appropriations for various state departments, commissions, boards, agencies, and certain state purposes related to general government for the fiscal year ending June 30, 1964, to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; to provide for and fix the compensation for certain state officers for the year 1962 and for each year thereafter; and to declare the effect of this act.

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The People of the State of Michigan enact:

4.740 Vehicle and driver records look up service; fees, costs.

Sec. 10. The department of state is authorized to provide a commercial "look up" service of vehicle and driver records on a fee basis, and not to exceed 50% of the fee revenues received from the service may be expended for necessary salaries, wages, supplies and equipment used to provide the service.

HISTORY: New 1963, p. 392, Act 230, Imd. Eff. May 23.

4.741 Salaries of certain state officers, legislators, state board of assessors.

Sec. 11. Commencing in the year 1961 the governor, secretary of state, state treasurer, auditor general and attorney general shall receive the following compensation for all services performed and expenses incurred during his term of office, the provisions of any other act to the contrary notwithstanding.

The governor shall receive an annual compensation of $27,500.00. The secretary of state, state treasurer, auditor general and attorney general shall each receive an annual compensation of $17,500.00.

Commencing in the year 1963, the compensation for services for members of the legislature and the president of the senate shall be $7,000.00 per annum during the term for which they are elected in addition to other payments provided by law.

Each member of the state board of assessors, except the governor, shall receive an annual salary of $1,000.00 which shall not be diminished by reason of his receipt of other compensation provided by law.

HISTORY: New 1963, p. 392, Act 230, Imd. Eff. May 23.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 4.699.

4.746 State research fund; creation; administration, proposals, approval, priority.

Sec. 16. The state research fund created by this act shall be administered by the department of economic development. Moneys in this fund shall be used to make grants to state colleges and universities in this state for specific research projects. The department shall give public notice of the existence of the state research fund, its objectives and the requirements for participation. Interested institutions shall submit specific research proposals in any area which will be of immediate or long-range benefit to the economic development of this state. Upon receipt of proposals, the director shall submit them to the economic expansion advisory council for evaluation. The director shall submit the proposals to the governor accompanied by the recommendations of the council. Upon approval by the governor, the director shall present the proposed projects to the legislature. Upon approval by resolution of the legislature of any proposal, the director shall release the grant of funds to the institution in accordance with the accounting laws of the state. Not more than 30% of the state research fund shall be granted to any one institution. In considering proposals, priority shall be given to those proposals which do not require continuing grants and have prospects of receiving financial assistance from other sources.

HISTORY: New 1963, p. 393, Act 230, Imd. Eff. May 23.

Act 277, 1964, p. 502; Imd. Eff. Jun. 4.

AN ACT to make appropriations for various state departments, commissions, boards, agencies, and certain state purposes related to general government for the fiscal year ending June 30, 1965; to provide for the expenditure of such appropriations; to provide for the disposition of fees and other income received by the various state agencies; and to declare the effect of this act.

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The People of the State of Michigan enact:

4.760 Vehicle and driver records look up service; fees, costs; photographs.

Sec. 10. The department of state is authorized to provide a commercial "look-up" service of vehicle and driver records on a fee basis, and not to exceed 50% of the fee revenues received from the service may be expended for necessary salaries, wages, supplies, equipment, workmen's compensation insurance premium ($100.00) and grants to the civil service commission ($931.00) and state employees' retirement fund ($8,582.00) used to provide the service.

The cost of processing and placing of the photograph of applicants for operator's or chauffeur's licenses shall in no instance exceed the amount of fees collected.

HISTORY: New 1964, p. 511, Act 277, Imd. Eff. Jun. 4.

4.761 Salaries of certain state officers, legislators, state board of assessors.

Sec. 11. The governor, lieutenant governor, secretary of state, state treasurer, auditor general and attorney general shall receive the following compensation for all services performed and expenses incurred during his term of office, the provisions of any other act to the contrary notwithstanding.

Commencing in the year 1961 the governor shall receive an annual compensation of $27,500.00. The secretary of state, state treasurer, auditor general and attorney general shall each receive an annual compensation of $17,500.00.

Commencing in the year 1965, the governor shall receive an annual compensation of $30,000.00. The lieutenant governor shall receive an annual compensation of $17,500.00. The secretary of state and the attorney general shall each receive an annual compensation of $20,000.00.

Commencing in the year 1963, the compensation for services for members of the legislature and the president of the senate shall be $7,000.00 per annum in addition to other payments provided by law.

Commencing in the year 1965, the compensation for services for members of the legislature shall be $10,000.00 plus an expense allowance of $2,500.00 per annum in addition to payments for mileage as provided by law.

Annually, in addition to his compensation as a member, the speaker of the house of representatives shall receive $5,000.00.

Each member of the state board of assessors, except the governor, shall receive an annual salary of $1,000.00 which shall not be diminished by reason of his receipt of other compensation provided by law.

HISTORY: New 1964, p. 511, Act 277, Imd. Eff. Jun. 4.

STATE OFFICERS' COMPENSATION COMMISSION: Act 357, 1968, p. 692, Eff. Sept. 20, prescribed the powers and duties of the state officers' compensation commission. See Compiled Law § 15.211 et seq., particularly §§ 15.216 and 15.217 relating to determination of salaries and expense allowances of the governor, lieutenant governor and members of the legislature.

4.765 State research fund; administration, proposals, approval, priority.

Sec. 15. The state research fund created by Act No. 230 of the Public Acts of 1963 shall be administered by the department of economic expansion. Moneys in this fund shall be used to make grants to state colleges and universities in this state for specific research projects. The department shall give public notice of the existence of the state research fund, its objectives and the requirements for participation. Interested institutions shall submit specific research proposals in any area which will be of immediate or long-range benefit to the economic development of this state. Upon receipt of proposals, the director shall submit them to the economic expansion advisory council for evaluation. The director shall submit the proposals to the governor accompanied by the recommendations of the council. Upon approval by the governor, the director shall present the proposed projects to the legislature. Upon approval by resolution of the legislature of any proposal, the director shall release the grant of funds to the institu-

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tion in accordance with the accounting laws of the state. Not more than 30% of the state research fund shall be granted to any one institution. In considering proposals, priority shall be given to those proposals which do not require continuing grants and have prospects of receiving financial assistance from other sources.

HISTORY: New 1964, p. 512, Act 277, Imd. Eff. Jun. 4.

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CHAPTER 5. EMERGENCY APPROPRIATIONS

EMERGENCY APPROPRIATIONS

Act 120 of 1937

5.1 Special commission on appropriations; creation, members.
5.2 Special commission; authority, limitations, quorum, veto of governor.
5.3 Special commission; expenses.
5.4 Special commission; chairman, rules and regulations, requests for funds.
5.5 Appropriation for emergency purposes.

Act 120, 1937, p. 190; Imd. Eff. Jun. 26.

AN ACT to provide for the releasing of appropriations for emergency purposes and for the transfer of appropriations; to make an appropriation for emergency purposes; to create a special commission on appropriations, and to prescribe its powers and duties; and to repeal all acts or parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

5.1 Special commission on appropriations; creation, members.

Sec. 1. A special commission for the release of sums from the appropriations made from time to time for the use of such commission is hereby created to consist of the governor, the speaker of the house of representatives and the members of the ways and means committee of the house of representatives, and the president of the senate and the members of the finance and appropriations committee of the senate, of the state legislature, in which commission shall be vested the authority and administration of the provisions of this act.

HISTORY: CL 1948, 5.1.

CITED IN OTHER SECTIONS: Sections 5.1 to 5.5 are cited in §§ 332.202, 388.219, and 550.705.

5.2 Special commission; authority, limitations, quorum, veto of governor.

Sec. 2. Whenever it shall seem necessary for the commission to consider, pass upon and release appropriations for emergency purposes, contingency or supplementary appropriations for state departments, institutions, boards or commissions, or special state purposes, out of funds appropriated by law for use by such special commission, the governor, as chairman of such commission shall give due and reasonable notice to the members of the commission. The commission shall not have the authority to appropriate money for any purpose that could have been anticipated and made while the legislature was in session, nor for any purpose that has been considered and denied by the legislature. The commission is authorized to transfer appropriations as between institutions and activities under the jurisdiction of the same administrative department, board or commission. A majority of the commission shall constitute a quorum for the transaction of business and no action shall be taken on release of funds from the appropriation made for the use of the commission, except that it be approved by a majority of the members of the commission: Provided, That the governor may veto any action of the commission at any time within 5 days of such action; and shall so notify the speaker of the house of representatives of such veto: Provided further, That the speaker of the house of representatives shall immediately call a meeting of said commission to assemble in the governor's office within 14 calendar days after notification of such veto, and at such meeting the commission shall vote upon the said veto by the governor, and upon a 2/3 vote of the members of the commission the veto of the governor shall not prevail. Each member of the commission, including the governor, shall be entitled to a vote upon all questions having to do with the release of appropriations.

HISTORY: Am. 1941, p. 47, Act 50, Imd. Eff. April 16;—CL 1948, 5.2.

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5.3 Special commission; expenses.

Sec. 3. The expenses of the members of the commission in attending any meetings of the commission shall be audited by the auditor general and paid from the emergency appropriation fund.

HISTORY: CL 1948, 5.3.

5.4 Special commission; chairman, rules and regulations, requests for funds.

Sec. 4. The governor shall be chairman of the commission. The commission shall prescribe rules and regulations for carrying out the provisions of this act. All requests for funds from any appropriations made for the use of the commission shall be submitted to the governor and to the budget director in writing, setting forth clearly the necessity for such funds and the emergency nature of the request.

HISTORY: CL 1948, 5.4.

5.5 Appropriation for emergency purposes.

Sec. 5. There is hereby appropriated from the general fund for the fiscal year ending June 30, 1959, and for each fiscal year thereafter, the sum of $100,000.00 for emergency purposes and to carry out the provisions of this act.

HISTORY: Add. 1941, p. 47, Act 50, Imd. Eff. Apr. 16;—CL 1948, 5.5;—Am. 1958, p. 239, Act 198, Imd. Eff. Apr. 21.

Sec. 6. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 23, 1931.

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CHAPTER 6. IMPEACHMENTS

IMPEACHMENTS

Act 62 of 1872

6.1 Impeachment of civil officers; power of house, suspension; vacancies.
6.2 Impeachment; trial by senate, judgment.
6.3 Impeachment; prosecution by house.
6.4 Impeachment; organization of senate as court, oaths, attendance of members.
6.5 Impeachment; appearance and answer of accused.
6.6 Impeachment; counsel for accused.
6.7 Impeachment; trial, time, place, adjournment.
6.8 Impeachment; acquittal.
6.9 Impeachment; president of senate, notice to senate.
6.10 Impeachment; writs and process, signing and testing, enforcement.
6.11 Impeachment; duties of secretary; record of proceedings, oaths.
6.12 Impeachment; senate appointment and removal of subordinate officers.
6.13 Impeachment; powers of managers, rights of process.
6.14 Impeachment; senate rules and regulations.
6.15 Impeachment; compensation of members of the court, managers, other officers; payment.
6.16 Application of act.

Act 62, 1872, p. 103; Imd. Eff. Mar. 30.

AN ACT regulating trials of impeachment and providing for the expenses thereof.

The People of the State of Michigan enact:

6.1 Impeachment of civil officers; power of house, suspension; vacancies.

Sec. 1. That the house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes and misdemeanors, but a majority of the members elected shall be necessary to direct an impeachment. Every officer impeached may by the governor be suspended in the exercise of his office until his acquittal, and the governor may make a provisional appointment to a vacancy occasioned by the suspension of an officer until he shall be acquitted, or until after the election and qualification of a successor.

HISTORY: How. 50;—CL 1897, 18;—CL 1915, 32;—CL 1929, 59;—CL 1948, 6.1.
CONSTITUTION: See Const. XI, 7.
FILLING VACANCIES: See Act 199 of 1923, being Compilers' § 201.31 et seq.

6.2 Impeachment; trial by senate, judgment.

Sec. 2. Every impeachment shall be tried by the senate. When the governor or lieutenant governor is tried the chief justice of the supreme court shall preside. When an impeachment is directed the senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of 2/3 of the members elected. Judgment, in case of impeachment, shall not extend further than removal from office, but the party convicted shall be liable to punishment according to law.

HISTORY: How. 51;—CL 1897, 19;—CL 1915, 33;—CL 1929, 60;—CL 1948, 6.2.
CONSTITUTION: See Const. XI, 7.

6.3 Impeachment; prosecution by house.

Sec. 3. When an impeachment is directed, the house of representatives shall elect from their own body 3 members, whose duty it shall be to prosecute such impeachment, and the house of representatives are hereby authorized to empower the said managers to prepare and present articles of impeachment in accordance with resolutions of said house.

HISTORY: How. 52;—CL 1897, 20;—CL 1915, 34;—CL 1929, 61;—CL 1948, 6.3.
CONSTITUTION: See Const. XI, 7.

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6.4 Impeachment; organization of senate as court, oaths, attendance of members.

Sec. 4. Whenever an impeachment is directed the senate shall forthwith, after the hour of final adjournment of the legislature, be organized into a court for the trial of the same at the state capital, and such organization shall be deemed to be perfected when the presiding officer of the senate and all the members thereof, present, shall have taken oath or affirmation hereinbefore prescribed, and no member of the court shall sit, or give his vote upon such trial, until he shall have taken such oath or affirmation, which oath or affirmation shall be administered by the secretary of the senate, to the presiding officer thereof, and by the presiding officer to each of the members of the senate. The senate sitting upon the trial of an impeachment shall have the same power to compel the attendance of its members, as when engaged in the ordinary business of legislation.

HISTORY: How. 53;—CL 1897, 21;—CL 1915, 35;—CL 1929, 62;—CL 1948, 6.4.

6.5 Impeachment; appearance and answer of accused.

Sec. 5. The senate when so organized shall forthwith cause the person impeached to appear and to answer the charge exhibited against him and upon his appearance, he shall be entitled to a copy of the articles of impeachment, and to a reasonable time to answer the same.

HISTORY: How. 54;—CL 1897, 22;—CL 1915, 36;—CL 1929, 63;—CL 1948, 6.5.

6.6 Impeachment; counsel for accused.

Sec. 6. The person accused shall be allowed counsel on the trial of the impeachment.

HISTORY: How. 55;—CL 1897, 23;—CL 1915, 37;—CL 1929, 64;—CL 1948, 6.6.

6.7 Impeachment; trial, time, place, adjournment.

Sec. 7. When issue shall be joined in an impeachment, the senate, sitting as a court for the trial of the same shall appoint a time and place for the trial thereof. At the time and place so appointed, the senate, as a court, shall proceed to hear, try and determine the impeachment, and may from time to time, if necessary, adjourn the trial to any other time or place at the state capital.

HISTORY: How. 56;—CL 1897, 24; -- CL 1915, 38;—CL 1929, 65;—CL 1948, 6.7.

6.8 Impeachment; acquittal.

Sec. 8. If 2/3 of all the members elected to the senate shall not assent to a conviction, the person impeached shall be declared acquitted.

HISTORY: How. 57;—CL 1897, 25;—CL 1915, 39;—CL 1929, 66;—CL 1948, 6.8.

6.9 Impeachment; president of senate, notice to senate.

Sec. 9. If the president of the senate shall be impeached, notice thereof shall be immediately given to the senate by the house of representatives, that another president may be chosen.

HISTORY: How. 58;—CL 1897, 26;—CL 1915, 40;—CL 1929, 67;—CL 1948, 6.9.

6.10 Impeachment; writs and process, signing and testing, enforcement.

Sec. 10. The writs and process of the senate sitting as a court for the trial of an impeachment, shall be signed by the secretary of the senate and tested in the name of the presiding officer, and the senate as such court shall have power to enforce obedience to its process by attachment and punishment as for contempt of the process of a court of record.

HISTORY: How. 59;—CL 1897, 27;—CL 1915, 41;—CL 1929, 68;—CL 1948, 6.10.

CONTEMPTS: For provisions regarding contempts of courts, see Compilers' § 600.1701 et seq.

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6.11 Impeachment; duties of secretary; record of proceedings, oaths.

Sec. 11. It shall be the duty of the secretary of the senate in all cases of impeachment to keep a full and accurate record of the proceedings which shall be taken and held as a public record, and he shall have power to administer all requisite oaths or affirmations.

HISTORY: How. 60;—CL 1897, 28;—CL 1915, 42;—CL 1929, 69;—CL 1948, 6.11.

6.12 Impeachment; senate appointment and removal of subordinate officers.

Sec. 12. The senate sitting as a court of impeachment shall have power from time to time to appoint such subordinate officers or clerks and reporters as may be necessary for the convenient transaction of business, and at any time to remove such officers.

HISTORY: How. 61;—CL 1897, 29;—CL 1915, 43; CL 1929, 70;—CL 1948, 6.12.

6.13 Impeachment; powers of managers, rights of process.

Sec. 13. The managers elected by the house of representatives, shall have all necessary powers for conducting the trial of impeachments before the senate, and they, and also the person impeached, shall severally be entitled to process for compelling the attendance of persons, or the production of papers and records required for the trial of the impeachment.

HISTORY: How. 62;—CL 1897, 30;—CL 1915, 44;—CL 1929, 71;—CL 1948, 6.13.

6.14 Impeachment; senate rules and regulations.

Sec. 14. The senate sitting as a court of impeachment, shall have full power and authority to establish such rules and regulations as may be necessary in the trials of impeachment.

HISTORY: How. 63;—CL 1897, 31;—CL 1915, 45;—CL 1929, 72;—CL 1948, 6.14.

6.15 Impeachment; compensation of members of the court, managers, other officers; payment.

Sec. 15. The presiding officer and members of the senate, while sitting as a court of impeachment, and the managers elected by the house, shall receive the sum of 5 dollars each per day, and mileage at the rate of 10 cents per mile in going from and returning to their places of residence by the ordinarily traveled routes; and the compensation of the secretary, sergeant-at-arms, and all subordinate officers, clerks, and reporters, shall be such an amount as shall be fixed by the vote of the members of such court. The state treasurer shall, upon presentation of a certificate or certificates signed by the presiding officer and secretary of the senate and countersigned by the auditor general pay all the expenses of the senate and managers elected by the house, which may be incurred under the provisions of this act.

HISTORY: How. 64;—CL 1897, 32;—CL 1915, 46;—CL 1929, 73;—CL 1948, 6.15.

6.16 Application of act.

Sec. 16. The provisions of this act shall apply to all resolutions and proceedings heretofore had, or hereafter to be had, to impeach any civil officer of this state.

HISTORY: How. 65;—CL 1897, 33;—CL 1915, 47;—CL 1929, 74;—CL 1948, 6.16.

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CHAPTER 8. STATUTES

STATUTES

Ch. 1, R.S. 1846

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8.61-8.68 Repealed.

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8.101 Immediate effect acts; printing, distribution.

AN ACT for revising and consolidating the general statutes of the state of Michigan.

Whereas, it is expedient that the general statutes of this state should be consolidated, revised and amended, and arranged in appropriate titles, chapters and sections, and that omissions should be supplied: Therefore,

Be it enacted by the Senate and House of Representatives of the State of Michigan,

In manner following, that is to say:—

R.S. 1846, Ch. 1.

STATUTES

8.1 Original acts; custody.

Sec. 1. The original acts of the legislature shall be deposited with, and kept by, the secretary of state.

HISTORY. Am. 1847, p. 56, Act 46, Imd. Eff. March 15;—CL 1857, 1;—CL 1871, 1;—How. 1;—CL 1897, 49;—CL 1915, 63;—CL 1929, 5.—CL 1948, 8.1.

Sec. 2.

EFFECTIVE DATE OF STATUTES: Sec. 2, Ch. 1, Title I, Pt. 1 R. S. 1838, provided that unless otherwise prescribed a statute should be-

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come operative "on the thirtieth day next after the day" of approval by the governor. Sec. 2, Ch. 1, R. S. 1846, made the effective date "the sixtieth day next after that" of approval. Const. (1850) IV, 20, provided that "No public act shall take effect or be in force until after the expiration of ninety days from the end of the session at which the same is passed, unless the legislature shall otherwise direct, by a two-thirds vote of the members elected to each house." For present law on this subject see Const. (1963) Art. IV, Sec. 27.

The dates of final adjournment of sessions since the Constitution of 1850 became effective are as follows:

Date of adjournment	Effective date
1851, Apr. 5;	July 5;
1851 (Ex. Ses.), June 28;	Sept. 27;
1853, Feb. 14;	May 16;
1855, Feb. 13;	May 15;
1857, Feb. 17;	May 19;
1858 (Ex. Ses.), Feb. 4;	May 6;
1859, Feb. 16;	May 18;
1861, Mar. 16;	June 15;
1861 (Ex. Ses.), May 11;	Aug. 10;
1862 (Ex. Ses.), Jan. 20;	Apr. 21;
1874 (Ex. Ses.), Mar. 26;	June 25;
1875, May 4;	Aug. 3;
1877, May 22;	Aug. 21;
1879, May 31;	Aug. 30;
1881, June 11;	Sept. 10;
1882 (Ex. Ses.), Mar. 14;	June 13;
1883, June 9;	Sept. 8;
1885, June 20;	Sept. 19;
1887, June 29;	Sept. 28;
1889, July 3;	Oct. 2;
1891, July 3;	Oct. 2;
1892 (Ex. Ses.), Aug. 8;	Nov. 7;
1893, May 29;	Aug. 28;
1895, May 31;	Aug. 30;
1897, May 31;	Aug. 30;
1898 (Ex. Ses.), Apr. 13;	July 13;
1899, June 24;	Sept. 23;
1899—1900 (Ex. Ses.), Jan. 6, 1900;	Apr. 7;
1900 (1st Ex. Ses.), Oct. 15;	Jan. 14, 1901;
1900 (2nd Ex. Ses.), Dec. 22;	Mar. 23, 1901;
1901, June 6;	Sept. 5;
1903, June 18;	Sept. 17;
1905, June 17;	Sept. 16;
1907, June 29;	Sept. 28;
1907 (Ex. Ses.), Oct. 26;	Jan. 25, 1908;
1909, June 2;	Sept. 1;
1911, May 2;	Aug. 1;
1912 (1st Ex. Ses.), Mar. 20;	June 19;
1912 (2nd Ex. Ses.), Apr. 10;	July 10;
1913, May 15;	Aug. 14;
1915, May 25;	Aug. 24;
1917, May 11;	Aug. 10;
1919, May 15;	Aug. 14;
1919 (Ex. Ses.), June 26;	Sept. 25;
1921, May 19;	Aug. 18;
1863, Mar. 23;	June 22;
1864 (Ex. Ses.), Feb. 6;	May 7;
1865, Mar. 23;	June 22;
1867, Mar. 28;	June 27;
1869, Apr. 5;	July 5;
1870 (Ex. Ses.), Aug. 10;	Nov. 9;
1871, Apr. 18;	July 18;
1872 (1st Ex. Ses.), Apr. 11;	July 11;
1872 (2nd Ex. Ses.), May 24;	Aug. 23;
1873, May 1;	July 31;
1921 (1st Ex. Ses.), June 20,	Sept. 19;
1921 (2nd Ex. Ses.), July 26;	Oct. 25;
1922 (Ex. Ses.), Oct. 20;	Jan. 19, 1923;
1923, May 31;	Aug. 30;
1923 (Ex. Ses.), Dec. 19;	Mar. 19, 1924;
1925, May 28;	Aug. 27;
1926 (Ex. Ses.), Mar. 15;	June 14;
1927, June 6;	Sept. 5;
1929, May 29;	Aug. 28;
1931, June 19;	Sept. 18;
1932 (1st Ex. Ses.), May 21;	All immediate effect;
1932 (2nd Ex. Ses.), Dec. 31;	1 act immediate effect;
1933, July 18;	Oct. 17;
1933, (Ex. Ses.), Jan. 4;	All immediate effect;
1934, (1st Ex. Ses.), April 4;	July 4;
1934, (2nd Ex. Ses.), Dec. 31;	No acts passed;
1935, June 22;	Sept. 21;
1936 (Ex. Ses.), Dec. 29;	1 act immediate effect;
1937, July 30;	Oct. 29;
1937 (Ex. Ses.), Aug. 11;	Nov. 10;
1938, (Ex. Ses.), Sept. 16;	All immediate effect;
1939, June 30;	Sept. 29;
1941, Oct. 11;	Jan. 10, 1942;
1942 (1st Ex. Ses.), Jan. 27;	All immediate effect;
1942 (2nd Ex. Ses.), Feb. 27;	All immediate effect;
1943, April 30;	July 30;
1944 (1st Ex. Ses.), March 14;	June 13;
1944 (2nd Ex. Ses.), June 20;	1 act immediate effect;
1944 (3rd Ex. Ses.), Nov. 3;	All immediate effect;
1945, June 7;	Sept. 6;
1946 (1st Ex. Ses.), March 8,	June 7;
1946 (2nd Ex. Ses.), July 26;	All immediate effect;
1947, July 12;	Oct. 11;
1948 (1st Ex. Ses.), May 21;	Aug. 20;
1948 (2nd Ex. Ses.), Dec. 15;	All immediate effect;
1949, June 24;	Sept. 23;
1950 (Ex. Ses.), Dec. 30;	March 31, 1951;
1951, June 29;	Sept. 28;
1951 (1st Ex. Ses.), Aug. 22;	All immediate effect;
1951 (2nd Ex. Ses.), Oct. 24;	All immediate effect;
1952, June 19;	Sept. 18,
1952 (Ex. Ses.), Dec. 23;	March 24, 1953;
1953, July 3;	Oct. 2;
1954, May 14;	Aug. 13;
1954 (Ex. Ses.), Aug. 19;	All immediate effect;
1955, July 15;	Oct. 14;
1955 (1st Ex. Ses.), Nov. 4;	Feb. 3, 1956;
1955 (2nd Ex. Ses.), Dec. 14;	All immediate effect;
1956, May 12;	Aug. 11;
1956 (Ex. Ses.), Nov. 8;	Feb. 7, 1957;
1957, June 28;	Sept. 27;
1958, June 14;	Sept. 13;
1958 (Ex. Ses.), June 19;	All immediate effect;
1959, Dec. 19;	March 19, 1960;
1960, May 18;	Aug. 17;
1960 (1st Ex. Ses.), Sept. 23;	All immediate effect;
1960 (2nd Ex. Ses.), Dec. 12;	All immediate effect,
1961, June 9;	Sept. 8;
1962, Dec. 27;	March 28, 1963;
1963, June 7;	Sept. 6;
1963 (1st Ex. Ses.), Nov. 14;	All immediate effect;
1963 (2nd Ex. Ses.), Dec. 24;	March 25, 1964;
1964, May 29;	Aug. 28;
1965, Dec. 30;	March 31, 1966;
1966, Dec. 9;	March 10, 1967;
1967, Aug. 3;	Nov. 2;
1967 (Ex. Ses.), Dec. 22;	March 22, 1968,
1968, Aug. 16;	Nov. 15;
1969, Dec. 19;	March 20, 1970;
1970, Dec. 31;	April 1, 1971.

8.3 Statutes; general rules of construction.

Sec. 3. In the construction of the statutes of this state, the rules stated in sections 3a to 3w shall be observed, unless such construction would be inconsistent with the manifest intent of the legislature.

HISTORY: CL 1857, 2;—CL 1871, 2;—How. 2;—CL 1897, 50;—CL 1915, 64;—CL 1929, 76;—Am. 1939, p. 102;—Act 60, Imd. Eff. Sep. 29;—CL 1948, 8.3;—Am. 1952, p. 111, Act 100, Eff. Sep. 18;—Am. 1956, p. 157, Act 76, Eff. Aug. 11;—Am. 1959, p. 264, Act 189, Imd. Eff. Jul. 22.

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8.3a Statutes; approved usage, technical words and phrases.

Sec. 3a. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases, and such as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3b Statutes; singular and plural, gender.

Sec. 3b. Every word importing the singular number only may extend to and embrace the plural number, and every word importing the plural number may be applied and limited to the singular number. Every word importing the masculine gender only may extend and be applied to females as well as males.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3c Statutes; authority of majority.

Sec. 3c. All words purporting to give a joint authority to 3 or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3d Statutes; definition: annual meeting.

Sec. 3d. The words "annual meeting," when applied to townships, mean the annual meeting required by law to be held on the Saturday immediately preceding the first Monday in April.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3e Statutes; definition: grantor, grantee.

Sec. 3e. The word "grantor" may be construed as including every person from or by whom any estate in lands passes in or by any deed. The word "grantee" may be construed as including every person to whom any such interest or estate passes in like manner.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3f Statutes; definition: inhabitant.

Sec. 3f. The word "inhabitant" means a resident of a city, township, village, district or county.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3g Statutes; definition: insane person.

Sec. 3g. The words "insane person" shall be construed to include an idiot, a non compos, a lunatic and an otherwise distracted person.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3h Statutes; definition: issue.

Sec. 3h. The word "issue" as applied to the descent of estates means all the lawful lineal descendants of the ancestor.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3i Statutes; definition: land, real estate, real property.

Sec. 3i. The words "land", "lands", "real estate" and "real property" mean lands, tenements and real estate, and all rights thereto and interests therein.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3j Statutes; definition: month, year.

Sec. 3j. The word "month" means a calendar month; the word "year", a calendar year; and the word "year" alone shall be equivalent to the words "year of our Lord".

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

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8.3k Statutes; definition: oath, sworn.

Sec. 3k. The word "oath" shall be construed to include the word "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall be construed to include the word "affirmed".

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3l Statutes; definition: person.

Sec. 3l. The word "person" may extend and be applied to bodies politic and corporate, as well as to individuals.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3m Statutes; definition: preceding, following.

Sec. 3m. The words "preceding" and "following", when used by way of reference to any title, chapter or section of the statutes of this state, shall be construed to mean the title, chapter or section next preceding or next following that in which such reference is made, unless when some other title, chapter or section is expressly designated in such reference.

HISTORY: Add. 1959, p. 265, Act 189, Imd. Eff. Jul. 22.

8.3n Statutes; definition: seal.

Sec. 3n. In all cases in which the seal of any court or public office is required to be affixed to any paper issuing from such court or office, the word "seal" shall be construed to mean the impression of the seal on the paper alone, as well as the impression of the seal affixed thereto by means of a wafer or wax.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

8.3o Statutes; definition: state, United States.

Sec. 3o. The word "state", when applied to the different parts of the United States, shall be construed to extend to and include the District of Columbia and the several territories belonging to the United States; and the words "United States" shall be construed to include the district and territories.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

8.3p Statutes; definition: will.

Sec. 3p. The word "will" shall be construed to include codicils, as well as wills.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

8.3q Statutes; definition: written, writing.

Sec. 3q. The words "written" and "in writing" may be construed to include printing, engraving and lithographing; except that in all cases where the written signature of any person is required by law, it shall always be the proper handwriting of such person; or in case he is unable to write, his proper mark.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

8.3r Statutes; acts of incorporation deemed public acts.

Sec. 3r. All acts of incorporation shall be deemed public acts, and as such may be declared on and given in evidence without specially pleading the same.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

8.3s Statutes; definition: general election.

Sec. 3s. The words "general election" mean the election required by law to be held in the month of November but do not include any primary election.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22;—Am. 1964, p. 279, Act 209, Eff. Aug. 28.

8.3t Statutes; definition: firearm.

Sec. 3t. The word "firearm", except as otherwise specifically defined in the statutes, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

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8.3u Statutes; re-enactments.

Sec. 3u. The provisions of any law or statute which is re-enacted, amended or revised, so far as they are the same as those of prior laws, shall be construed as a continuation of such laws and not as new enactments. If any provision of a law is repealed and in substance re-enacted, a reference in any other law to the repealed provision shall be deemed a reference to the re-enacted provision.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

8.3v Statutes; population.

Sec. 3v. The population of the state or any political subdivision thereof shall be determined, unless otherwise specifically provided, on the basis of the latest federal decennial census preceding the time as of which the population is to be determined.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

8.3w Statutes; section numbers.

Sec. 3w. Wherever in the statute laws of this state a reference is made to several sections and the section numbers are connected by the word "to", the reference includes both sections whose numbers are given and all intervening sections.

HISTORY: Add. 1959, p. 266, Act 189, Imd. Eff. Jul. 22.

8.4 Statutes; effect of repeal of repealing statute.

Sec. 4. Whenever a statute, or any part thereof shall be repealed by a subsequent statute, such statute, or any part thereof, so repealed, shall not be revived by the repeal of such subsequent repealing statute.

HISTORY: CL 1857, 3;—CL 1871, 3;—How. 3;—CL 1897, 51;—CL 1915, 65;—CL 1929, 77;—CL 1948, 8.4.

8.4a Statutes; effect of repeal.

Sec. 4-a. The repeal of any statute or part thereof shall not have the effect to release or relinquish any penalty, forfeiture, or liability incurred under such statute or any part thereof, unless the repealing act shall so expressly provide, and such statute and part thereof shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

HISTORY: Add. 1931, p. 38, Act 25, Imd. Eff. April 21;—CL 1948, 8.4a.

8.4b Statutes; catch line not part of section.

Sec. 4-b. The catch line heading of any section of the statutes that follows the act section number shall in no way be deemed to be a part of the section or the statute, or be used to construe the section more broadly or narrowly than the text of the section would indicate, but shall be deemed to be inserted for purposes of convenience to persons using publications of the statutes.

HISTORY: Add. 1931, p. 38, Act 25, Imd. Eff. April 21;—CL 1948, 8.4b.

8.5 Statutes; severability clause.

Sec. 5. In the construction of the statutes of this state the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the legislature, that is to say:

If any portion of an act or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the act which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and to this end acts are declared to be severable.

HISTORY: Add. 1945, p. 122, Act 119, Imd. Eff. Apr. 20;—CL 1948, 8.5.

Original section 5 of R.S. 1846, Ch. 1, required secretary of state to furnish copies of laws for publication and was repealed by Act 170 of 1877.

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8.6 Statutes and rules; time, computation.

Sec. 6. This section applies to the statutes and administrative rules. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday or legal holiday, the period or day is extended to include the next day which is not a Saturday, Sunday or legal holiday.

HISTORY: Add. 1966, p. 155, Act 129, Eff. Mar. 10, 1967;—Am. 1970, p. 468, Act 141, Imd. Eff. Aug. 1.

Original section 6 of R.S. 1846, Ch. 1, provided for the publication and distribution of the laws and was repealed by Act 170 of 1877.

8.7 Department of natural resources; references.

Sec. 7. Whenever reference is made to the department of conservation or the conservation commission it shall mean the department of natural resources or the natural resources commission.

HISTORY: Add. 1969, p. 388, Act 208, Eff. Mar. 20, 1970.

Original section 7 of R.S. 1846, Ch. 1, provided for the distribution of the laws and was repealed by Act 170 of 1877.

Secs. 8-11.

HISTORY: CL 1857, 8-10 and CL 1871, 8-10 provided for the publication and distribution of the laws and were repealed by Act 170 of 1877. The act of 1877 was repealed by Act 122 of 1889, which in turn was repealed by Act 44 of 1899. See Compilers' § 24.1 et seq.

Act 147, 1956, p. 281; Eff. Aug. 11.

AN ACT to provide for the substitution of certified mail, or certified mail, return receipt requested, in lieu of registered mail, or registered mail, return receipt requested, in the statutes of this state, except where registered mail or registered mail, return receipt requested, is used in connection with items of intrinsic value.

The People of the State of Michigan enact:

8.11 Statutes; definition: registered mail.

Sec. 1. Wherever there is contained in the statutes of this state the term or terms, or direction for the use of, "registered mail" or "registered mail, return receipt requested," such term or terms shall be deemed to include the term or terms "certified mail" or "certified mail, return receipt requested," and in the case of certified mail the receipt of mailing shall be postmarked.

HISTORY: New 1956, p. 281, Act 147, Eff. Aug. 11.

Act 46, 1847, p. 55; Imd. Eff. Mar. 15.

AN ACT to provide for the preservation of the laws of this state.

Be it enacted by the senate and house of representatives of the state of Michigan:

8.21 Acts and joint resolutions; binding.

Sec. 1. That the secretary of state be, and he is hereby required, to cause to be arranged and bound in a substantial manner, all acts and joint resolutions of the several legislatures of this state, which become laws under the constitution, so far as the same may be on file in his office.

HISTORY: CL 1857, 11;—CL 1871, 11;—How. 4;—CL 1897, 52;—CL 1915, 66;—CL 1929, 78;—CL 1948, 8.21. See Act 44 of 1899, Compilers' § 24.1 et seq.

8.22 Acts and joint resolutions; binding after enrollment, certificate, signatures.

Sec. 2. Hereafter, at the close of each session of the legislature, the secretary of state shall cause to be bound in like manner the enrolled acts and joint resolutions of the legislature, which shall become laws under the constitution of this state, and shall certify, under his hand and the seal of the state, on the frontispiece of the volume, that

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said volume contains the whole of the original acts and joint resolutions, as enrolled by the clerks, signed by the secretary of the senate and the clerk of the house of representatives, and approved by the governor, or which may have become laws under the constitution of this state, without his signature or approval.

HISTORY: CL 1857, 12;—CL 1871, 12;—How. 5;—CL 1897, 53;—CL 1915, 67;—CL 1929, 79;—Am. 1931, p. 195, Act 125, Imd. Eff. May 19;—CL 1948, 8.22.

8.23 Acts and joint resolutions; bound volumes as records, expenses.

Sec. 3. The acts and joint resolutions, when bound and certified, as specified in this act, shall be kept in the office of the secretary of state, and no further record thereof shall be required to be kept. The expenses of arranging and binding the laws, as specified in the preceding sections of this act, shall be paid by the treasurer of the state out of any moneys in the treasury not otherwise appropriated, on the certificate of the secretary of state.

HISTORY: CL 1857, 13;—CL 1871, 13;—How. 6;—CL 1897, 54;—CL 1915, 68;—CL 1929, 80;—CL 1948, 8.23.

8.31-8.39 Repealed. 1955, p. 342, Act 230, Eff. Oct. 14;—1958, p. 5, Act 2, Eff. Sep. 13.

Sections provided for collection, compilation, annotation, printing, distribution and sale of general laws of state.

Act 193, 1970, p. 555; Imd. Eff. Aug. 6.

AN ACT to provide for the compilation of the general laws of this state and the compilation and revision of state administrative rules; and to prescribe the functions of the legislative council relative thereto.

The People of the State of Michigan enact:

8.41 Compilations of laws and rules; legislative council; format and contents.

Sec. 1. The legislative council shall provide for separate compilations of all general laws in force and administrative rules filed with the secretary of state, notwithstanding section 55 of Act No. 306 of the Public Acts of 1969, being section 24.255 of the Compiled Laws of 1948. The general laws shall be arranged without alteration, and both compilations shall include appropriate heads and titles. The printed compilations shall contain an index of the laws or rules contained therein, and notes, references and other materials as the council deems necessary. The council shall determine the number of sets of the compiled laws and administrative rules to be printed and bound, weight and kind of paper, style and material for binding and all other matters concerning the format and contents of the compilations.

HISTORY: New 1970, p. 555, Act 193, Imd. Eff. Aug. 6.

8.42 Administrative code; revision, procedure.

Sec. 2. The council shall provide for an orderly revision of the Michigan administrative code, hereinafter referred to as the code. Personnel working on the revision and the agency whose rules are being revised shall cooperate in the revision but the decision of the revisers shall govern subject to review by the council when requested by the agency.

HISTORY: New 1970, p. 556, Act 193, Imd. Eff. Aug. 6.

8.43 Administrative code; revision; purpose.

Sec. 3. The revision shall clarify, simplify and shorten rules while retaining their substance, sense and meaning. The revision may:

(a) Adopt a uniform system of style, printing, punctuation, capitalization, spelling

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and wording; eliminate obsolete and redundant words; eliminate duplications and rules rescinded indirectly or by implication; and clarify rules.

(b) Change headings, subheadings, authority paragraphs and catchlines, rearrange rules, change reference numbers or words to correct the references, substitute figures for written words, and correct obvious clerical, typographical and grammatical errors, inaccuracies, inconsistencies and omissions.

(c) Renumber rules and parts of rules, transfer rules, and divide or combine rules so as to give to distinct subject matters a separate rule number.

(d) Substitute the name of an officer, agency or instrumentality, in which functions are currently vested, for the name of any other officer, agency or instrumentality formerly vested with the same or similar functions.

(e) Omit temporary, emergency and rescinding rules if a note indicates the nature and latest location in the code of the omitted material.

(f) Modernize language to correspond to current drafting style for legislative bills and administrative rules.

HISTORY: New 1970, p. 556, Act 193, Imd. Eff. Aug. 6.

8.44 Revised rules; publication, certificate.

Sec. 4. A revised rule is not subject to the requirements of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948, pertaining to the processing and filing of a rule. It shall be published in the next interim or annual supplement to the code, or both, or republication of the code with a certificate of the council, which may cover all of the revisions in the particular publication, that the revised rules are a revision, without change in substance, of certain identified administrative rules and that the revision has been made in accordance with applicable law. The rule when so printed shall constitute a part of the code in place of the text which was revised.

HISTORY: New 1970, p. 556, Act 193, Imd. Eff. Aug. 6.

8.45 Contracts; supervision.

Sec. 5. The council may enter into 1 or more contracts or provide for editorial work, printing, binding, indexing and other work which it deems necessary, and may provide that the compilations be privately printed and published and sold and distributed by the publishers on such terms as the council may prescribe. The work of preparing, editing, indexing and publishing the laws and administrative rules shall be under the direction and supervision of the council.

HISTORY: New 1970, p. 556, Act 193, Imd. Eff. Aug. 6.

8.46 Republications; supplements.

Sec. 6. The council may enter into 1 or more contracts or provide for the preparation and publication of subsequent editions of the compiled laws and administrative rules and cumulative or other supplements to the compiled laws and administrative code, which contracts as to supplements may be awarded for a period of not more than 10 years under such terms as the council prescribes.

HISTORY: New 1970, p. 556, Act 193, Imd. Eff. Aug. 6.

8.47 Volumes of compiled laws and rules; examination, certification.

Sec. 7. Before any copies of a volume of the compilation of either the general laws or administrative rules shall be printed and bound, they shall be examined and compared by the council, and if they comply with the terms of this act, the council shall so certify. After such certification the laws and rules shall be deemed to be the official statutes and administrative rules of this state and evidence in all courts having jurisdiction. The certification shall be printed in each volume.

HISTORY: New 1970, p. 556, Act 193, Imd. Eff. Aug. 6.

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8.48 Compiled laws and administrative code; purchase, distribution.

Sec. 8. The council shall purchase a sufficient number of sets of the compiled laws and administrative code to be distributed in the manner provided by law as it estimates will be needed for such distribution.

HISTORY: New 1970, p. 557, Act 193, Imd. Eff. Aug. 6.

8.51-8.55 Repealed. 1965, p. 838, Act 412, Eff. Jan. 1, 1966.

Sections established board of commissioners for uniform legislation in United States.

8.61-8.68 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections provided for making, printing, distribution and sale of index to laws.

Act 14, 1897, p. 16; Imd. Eff. Feb. 24.

AN ACT to provide for the printing and distribution of all laws of a public and general character which have been given immediate effect.

The People of the State of Michigan enact:

8.101 Immediate effect acts; printing, distribution.

Sec. 1. That it shall be the duty of the secretary of state at least once in each month to cause to be printed in pamphlet form all laws of a general and public character which shall be passed, given immediate effect, and have received the approval of the executive during the continuation of the legislative session. It shall be the further duty of the secretary of state to transmit a copy of said laws to the following persons: viz: Judges of all courts of record, prosecuting attorneys, and county clerks.

HISTORY: CL 1897, 61;—CL 1915, 78;—CL 1929, 114;—CL 1948, 8.101.

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CHAPTER 10. GOVERNOR

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GOVERNOR.

Sec. 1.

HISTORY: CL 1857, 140;—CL 1871, 203;—How. 259;—CL 1897, 62;—CL 1915, 84;—Rep. 1929, p. 821, Act 309, Imd. Eff. May 24, being CL 1929, 121.

This section provided for the salary of the governor and has been superseded by Const. VI, 21.

10.2 Governor, governor-elect; order of succession, salary.

Sec. 2. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general, the president pro tempore of the senate and the speaker of the house of representatives shall in that order be governor for the remainder of the governor's term. In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect, shall become governor in that order at the commencement of the governor-elect's term. If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in such order of precedence until the absence or inability giving rise to the devolution of powers and duties ceases. The salary of any state officer while acting as

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governor due to the inability of his predecessor to discharge his powers and duties as governor shall be increased by an amount so that his total state salary is equal to that of governor.

HISTORY: CL 1857, 141;—CL 1871, 204;—How. 260;—CL 1897, 63;—CL 1915, 85;—CL 1929, 122;—CL 1948, 10.2;—Am. 1963, 2nd Ex. Ses., p. 27, Act 20, Imd. Eff. Jan. 1, 1964.

10.3 Private secretary and executive clerk.

Sec. 3. The governor may appoint a private secretary, who shall hold office during his pleasure, and keep a correct record of all executive proceedings and decisions, at a compensation to be fixed by law. The governor may also appoint an executive clerk, to assist in the conduct of the business of the executive department, who shall also be clerk of the advisory board in the matter of pardons, and shall receive a salary of 1,500 dollars per annum.

HISTORY: Am. 1848, p. 14, Act 18, Imd. Eff. Jan. 29;—CL 1857, 142;—CL 1871, 205;—Am. 1879, p. 32, Act 35, Imd. Eff. Apr. 14;—How. 261;—Am. 1893, p. 310, Act 193, Eff. July 1;—CL 1897, 64;—CL 1915, 86;—CL 1929, 123;—CL 1948, 10.3.

Act 6, 1901, p. 12; Imd. Eff. Feb. 5.

AN ACT to provide for the employment of clerks or assistants in the executive office of this state.

The People of the State of Michigan enact:

10.11 Additional clerks and assistants; employment, compensation.

Sec. 1. The governor may from time to time employ such clerks and assistants in addition to those already provided for by law, for service in his department, as he may consider necessary, the compensation of such clerks and assistants to be determined by the governor and to be paid from the general fund on the warrant of the auditor general, in like manner as the salaries of state officers are paid: Provided, That nothing in this act shall authorize the payment of any salary exceeding 1,200 dollars per year.

HISTORY: CL 1915, 87;—CL 1929, 124;—CL 1948, 10.11.

10.21 Repealed. 1963, 2nd Ex. Ses., p. 27, Act 20, Eff. Jan. 1, 1964.

Section established order of succession in case of vacancy in office of governor.

Act 302, 1945, p. 523; Imd. Eff. May 25.

AN ACT authorizing the governor to proclaim a state of emergency, and to prescribe the powers and duties of the governor with respect thereto; and to prescribe penalties.

The People of the State of Michigan enact:

10.31 Proclamation of state of emergency; orders, rules.

Sec. 1. During times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the state, or reasonable apprehension of immediate danger thereof, when public safety is imperiled, either upon application of the mayor of a city, sheriff of a county, the commissioner of the Michigan state police, or upon his own volition, the governor may proclaim a state of emergency and designate the area involved. Following such proclamation or declaration, the governor may promulgate such reasonable orders, rules and regulations as he deems necessary to protect life and property, or to bring the emergency situation within the affected area under control. Without limiting the scope of the same, said orders, rules and regulations may provide for the control of traffic, including public and private transportation, within the area or any section thereof; designation of specific zones within the area in which occu-

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pancy and use of buildings and ingress and egress of persons and vehicles may be prohibited or regulated; control of places of amusement and assembly, and of persons on public streets and thoroughfares; establishment of a curfew; control of the sale, transportation and use of alcoholic beverages and liquors; control of the possession, sale, carrying and use of firearms, other dangerous weapons, and ammunition; and control of the storage, use, and transportation of explosives or inflammable materials or liquids deemed to be dangerous to public safety. Such orders, rules and regulations shall be effective from the date and in the manner prescribed in such orders, rules and regulations and shall be made public as provided therein. Such orders, rules and regulations may be amended, modified, or rescinded, in like manner, from time to time by the governor during the pendency of the emergency, but shall cease to be in effect upon declaration by the governor that the emergency no longer exists.

HISTORY: CL 1948, 10.31.

10.32 Construction of act.

Sec. 2. It is hereby declared to be the legislative intent to invest the governor with sufficiently broad power of action in the exercise of the police power of the state to provide adequate control over persons and conditions during such periods of impending or actual public crisis or disaster. The provisions of this act shall be broadly construed to effectuate this purpose.

HISTORY: CL 1948, 10.32.

10.33 Violation; misdemeanor.

Sec. 3. The violation of any such orders, rules and regulations made in conformity with this act shall be punishable as a misdemeanor, where such order, rule or regulation states that the violation thereof shall constitute a misdemeanor.

HISTORY: CL 1948, 10.33.

MISDEMEANOR: Penalty for, see Compilers' § 750.504.

10.41-10.48 Repealed. 1962, p. 67, Act 81, Eff. Mar. 28, 1963.

Sections created and prescribed duties of wartime emergency protective defense board.

Act 195, 1931, p. 321; Imd. Eff. May 28.

AN ACT to authorize the creation of special commissions and to prescribe their powers and duties; and to make an appropriation therefor.

The People of the State of Michigan enact:

10.51 Special study commissions; creation, name, dissolution.

Sec. 1. The governor is hereby authorized and empowered, at such times and for such purposes as he may deem necessary or advisable, to create special commissions consisting of as many members as he may deem appropriate, with the powers and duties as hereinafter prescribed. Each of such commissions shall be designated and known by some suitable name. Whenever in the judgment of the governor, any special commission created under this act has fully completed the work assigned to it or fulfilled the purposes for which it was created, or the need for such a commission for any reason no longer exists, the governor may, by executive order declare such commission dissolved and the members thereof shall thenceforth be relieved of all official duties as such.

HISTORY: CL 1948, 10.51.

CITED IN OTHER SECTIONS: Sections 10.51 to 10.57 are cited in § 16.111.

10.52 Special commissions; members; compensation and expenses.

Sec. 2. The members of each of the commissions thus created shall be appointed by the governor from among resident citizens of this state and shall hold the office to

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which appointed from the date of such appointment until the appointment and qualification of a successor. Vacancies in any of such offices shall likewise be filled by the governor. Each member shall qualify by taking the constitutional oath of office. The members of such commissions shall serve without compensation. Actual and necessary traveling expenses and other expenses necessarily incurred by members while on the business of their respective commissions shall be paid from the appropriations for the expenses of the respective commissions upon proper voucher therefor, signed by the chairman of the proper commission.

HISTORY: CL 1948, 10.52.

10.53 Special commissions; organization, officers, sub-commissions, rules of procedure.

Sec. 3. As soon as practicable after creation of a commission and the appointment and qualification of its members, they shall meet at the direction of the governor for purposes of organization. Each commission shall thereupon elect a chairman, as many vice-chairmen as may be advisable, and a secretary, and may appoint such subcommission as it may deem necessary or advisable. Each commission may adopt its own rules of procedure.

HISTORY: CL 1948, 10.53.

10.54 Special commissions; discharge of duties.

Sec. 4. Each commission shall, with all reasonable dispatch after formal organization, enter upon the discharge of the duties imposed upon it and shall hold such meetings and make such study and examination as may from time to time be necessary in the fulfillment of the purposes for which it was created.

HISTORY: CL 1948, 10.54.

10.55 Special commissions; examination, study, inquiry, reports.

Sec. 5. Each commission shall examine, study and inquire into all matters and things in relation to the purpose for which the commission was created; and shall report to the legislature in writing upon the beginning of its biennial session, and at such other times as the legislature or the governor shall direct, its findings and recommendations together with drafts of bills covering such proposed legislation as it may recommend.

HISTORY: CL 1948, 10.55.

10.56 Special commissions; assistance from public officials, access to records.

Sec. 6. All departments, boards, commissions, or officers of the state or of any political subdivision thereof, shall give to every such commission, or to any member or representative thereof, any necessary assistance required by such commission or any member or representative thereof in the performance of the duties of such commission so far as is compatible with its or his other duties; free access shall also be given to any books, records or documents in his or its custody, relating to matters within the scope of the study or investigation of such commission.

HISTORY: CL 1948, 10.56.

10.57 Special commissions; general fund appropriation, apportionment by administrative board.

Sec. 7. For the purposes of this act there is hereby appropriated out of the general fund of this state such amount as shall be contained in the biennial budget therefor. The state administrative board shall, out of such appropriations, assign a definite portion thereof as a specific appropriation for the expenses of each commission when, as and if created.

HISTORY: CL 1948, 10.57

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Act 146, 1877, p. 137; Eff. Aug. 21.

AN ACT to define and limit the term of office of officers and commissioners, appointed by the governor, in cases not otherwise defined and limited.

The People of the State of Michigan enact:

10.61 Terms of appointive offices.

Sec. 1. That the term of office of officers and commissioners appointed by the governor, in cases not otherwise provided, or where no term is specified in the act creating such office or commission, shall expire 2 years from the first day of January of the year when the appointment is made, unless the appointment shall be by the commission limited to a shorter term, in which case it shall cease as limited, or unless the appointment be to fill a vacancy, in which case it shall continue for the remainder of the term: Provided, That in cases where by law the office does not expire with the term, such officers shall hold the office and continue to act until their successors are appointed and have qualified.

HISTORY: How. 338;—CL 1897, 166;—CL 1915, 212;—CL 1929, 402;—CL 1948, 10.61.

Act 1, 1968, p. 7; Eff. Nov. 15.

AN ACT to establish a Michigan women's commission; and to prescribe its powers and duties.

The People of the State of Michigan enact:

10.71 Michigan women's commission; establishment, ex-officio membership; unit in executive office of the governor.

Sec. 1. The Michigan women's commission is established and consists of 15 members broadly representative of all fields of interest to women. The heads of the following departments or their representatives are ex officio members of the commission: civil service, education, labor and social services. The commission is an independent unit in the executive office of the governor, except for budgeting, procurement and related management functions.

HISTORY: New 1968, p. 7, Act 1, Eff. Nov. 15.

10.72 Members; appointment, term, vacancies, officers, expenses.

Sec. 2. The governor shall appoint by and with the advice and consent of the senate the members of the commission for terms of 3 years, except that of the members first appointed, 5 each shall be appointed for terms of 1, 2 and 3 years. Vacancies shall be filled in the same manner as the original appointments and for the balance of the unexpired term. The governor shall designate a chairman and a vice-chairman from the members of the commission. The chairman shall be the chief executive officer of the commission. The commission may appoint such other officers as it deems necessary. The members of the commission shall be reimbursed only for their actual and necessary expenses incurred in the performance of their duties.

HISTORY: New 1968, p. 7, Act 1, Eff. Nov. 15.

10.73 Powers and duties.

Sec. 3. The commission shall:

(a) Stimulate and encourage throughout the state study and review of the status of women in this state.

(b) Strengthen home life by directing attention to critical problems confronting women as wives, mothers, homemakers and workers.

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(c) Recommend methods of overcoming discrimination against women in public and private employment and civil and political rights.

(d) Promote more effective methods for enabling women to develop their skills, continue their education, and to be retrained.

(e) Make surveys and appoint advisory committees in the fields of, but not limited to, education, social services, labor laws and employment policies, law enforcement, health, new and expanded services, legal rights, family relations and volunteer services.

(f) Secure appropriate recognition of women's accomplishments and contributions to this state.

HISTORY: New 1968, p. 7, Act 1, Eff. Nov. 15.

10.74 Acceptance of federal funds, private gifts and donations.

Sec. 4. The commission may accept federal funds granted by congress or executive order for all or any of the purposes of this act as well as private gifts and donations from individuals, private organizations or foundations: Provided, That the acceptance and use of federal funds commits no state funds and places no obligation upon the legislature to continue the purposes for which the funds are made available.

HISTORY: New 1968, p. 7, Act 1, Eff. Nov. 15.

10.75 Cooperation of state agencies.

Sec. 5. The commission shall have the full cooperation of all executive departments and agencies of the state in the performance of its duties.

HISTORY: New 1968, p. 8, Act 1, Eff. Nov. 15.

10.76 Annual report to governor.

Sec. 6. The commission shall submit an annual report to the governor including recommendations based on its studies.

HISTORY: New 1968, p. 8, Act 1, Eff. Nov. 15.

10.77 Promulgation of rules and regulations.

Sec. 7. The commission shall have no authority to promulgate rules and regulations.

HISTORY: New 1968, p. 8, Act 1, Eff. Nov. 15.

Act 241, 1955, p. 383; Imd. Eff. Jun. 22.

AN ACT to provide for the preparation of plans and specifications for the construction of an executive residence; to prescribe the powers and duties of the state administrative board with respect thereto; and to make an appropriation to carry out the provisions of this act.

The People of the State of Michigan enact:

10.101 Executive residence; appropriation for plans, submission of plans to legislature.

Sec. 1. There is hereby appropriated from the general fund of the state the sum of $10,000.00, to the state administrative board, for plans and specifications for the construction of an executive residence, with the total cost of the building and the furniture and furnishings to be not less than $150,000.00 nor more than $250,000.00, such plans and specifications to be prepared under the supervision of the building engineering and management division of the state department of administration. Such plans and specifications shall be submitted to the 1956 session of the legislature, on the convening thereof.

HISTORY: New 1955, p. 383, Act 241, Imd. Eff. Jun. 22.

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10.102 Executive residence; disbursement of appropriation for plans.

Sec. 2. The appropriation under the provisions of this act shall be disbursed on vouchers signed by the secretary of the state administrative board and on warrants of the auditor general on the state treasurer, in accordance with the accounting laws of the state.

HISTORY: New 1955, p. 384, Act 241, Imd. Eff. Jun. 22.

EXECUTIVE ORDER

10.111 Executive reorganization order no. 1970-2; establishing the management sciences group.

WHEREAS, it is in the best interests of the people of the State of Michigan to achieve the most efficient and economical operation of the state government; and

WHEREAS, the attainment of this goal requires the adoption of the most modern and effective management practices, sound planning for, and development of responsive management and management information systems, and the efficient use of automatic data processing equipment; and

WHEREAS, it is necessary to establish an effective centralized direction for statewide efforts to attain this goal;

THEREFORE, I, William G. Milliken, Governor of the State of Michigan, pursuant to the authority vested in me by the provisions of Article V, Section 2, of the State Constitution of 1963, do hereby order and direct that the Management Sciences Group be established within the Executive Office of the Governor.

I. The following powers, duties and functions of the Department of Administration created under Act 189 of the Public Acts of 1964, being Section 18.5 (a) of the Compiled Laws of 1948, are transferred to the Management Sciences Group:

a. Establish central data processing centers for the several state agencies.

b. Approve the acquisition and use of electronic data processing equipment by state agencies.

c. Arrange for and effect the centralization and consolidation of equipment and services in order to obtain maximum utilization and efficiency.

The transfer of the function in b. above as pertains to approving the acquisition of electronic data processing equipment does not transfer from the Department of Administration that department's statutory purchasing function for such equipment.

II. The responsibility of the State Budget Director pursuant to Executive Order 1965-30 for developing and providing for continuing analyses and concurrent evaluations of all electronic data processing, computer, and systems management functions and activities being carried out in the Executive Branch is transferred to the Management Sciences Group.

III. The Management Sciences Group shall be charged with the following responsibilities:

A. *MASTER PLAN* – In coordination with heads of state departments and agencies, develop and maintain a master plan for statewide departmental and interdepartmental management information system development which provides:

1. Long-range (5-year) and short-range (2-year) objectives including concepts for and priorities for achieving objectives.
2. Identification of resources (personnel and funds) required to achieve objectives.
3. Management and ADP personnel training objectives and policies.
4. Objectives and policies for standardizing data elements and codes, program languages, system documentation, and ADP facility operation.

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B. *MANAGEMENT SYSTEMS*

1. Execute management consulting projects for the Executive Office including but not limited to:
   a. Management systems analysis and evaluation.
   b. Development of management information systems for the Executive Office.
   c. Technical assistance in management sciences for special task forces.
2. Advise and assist heads of departments and agencies in:
   a. Management and management information systems analysis, design, and development.
   b. Management and management information system cost benefit analysis.
   c. System output measurement.
   d. Conducting organization studies and analysis.
   e. Developing and conducting management improvement programs.

C. *AUTOMATIC DATA PROCESSING SYSTEMS*

1. Develop and implement a program for effective and economic consolidation of automatic data processing equipment (ADPE) and facilities to obtain maximum efficiency and equipment utilization.
2. Develop criteria and procedures for:
   a. ADPE requirements, justification, and approval.
   b. ADPE evaluation and selection.
   c. Site preparation and readiness inspection for ADPE installation.
   d. ADP facility performance evaluation.
   e. Reporting ADPE and ADP personnel utilization.
3. Review and approve all proposed ADPE requirements, justification, configurations, and services for state departments and agencies regardless of funding source.
4. Maintain information on ADPE development, capability, cost and availability.
5. Develop policies, objectives, plans, and programs for telecommunications management.
6. Advise the legislature of ADP utilization and plans for improving the effectiveness of ADP operations.

D. *PRIVATE CONSULTING SERVICES*

1. Consistent with the constitutional responsibilities of the Civil Service Commission and the statutory responsibilities of the Department of Administration:
   a. Develop policies and procedures to control the acquisition of management and ADP consultant services.
   b. Review and approve all proposals for obtaining management and ADP consultant contract services for state departments and agencies.
2. Maintain a catalogue of management and ADP consultants.
3. Develop procedures for evaluating performance of consultants and maintain records of performance.

In addition to the responsibilities set forth above, the Director, Management Sciences Group, in coordination with the Bureau of Policies and Programs, will serve as liaison with local government agencies, other states, the federal government, and the private sector in matters relating to management and management information systems design, development and improvement.

Concurrently with the establishment of the Management Sciences Group in The Executive Office of the Governor, the Management Services Division in The Bureau of the Budget is abolished. All records, property, personnel and unexpended balances of ap-

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propriations, allocations, and other funds used, held, employed, available or to be made available to the Management Services Division are hereby transferred to the Management Sciences Group.

HISTORY: New 1970, p. 686, E.R.O. No. 1970-2, Eff. Sep. 1.

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CHAPTER 11. SECRETARY OF STATE

SECRETARY OF STATE
Ch. 12, R.S. 1846 (cont'd.)
11.4 Secretary of state; duties.
11.5 Deputy secretary of state; appointment, duties, salary.
FEES OF SECRETARY OF STATE
Act 151 of 1929
11.11 Fees; making and certifying of copies.
11.12 Fees; extradition.
11.13 Fees; credited to general fund.
CODIFICATION OF MOTOR VEHICLE LAWS
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ARCHIVES OF COMMISSIONER OF IMMIGRATION
Act 31 of 1885
11.113 Preservation of archives of office of commissioner of immigration.
BUREAU OF ELECTIONS
Act 65 of 1951
11.131-11.134 Repealed.

R.S. 1846, Ch. 12 (continued).

SECRETARY OF STATE.

11.4 Secretary of state; duties.

Sec. 4. The secretary of state shall have the custody of the great seal of the state, and copies of all records and papers in his office, certified by him, and authenticated by the great seal of the state, shall be evidence in all cases equally, and with the like effect, as the originals.

HISTORY: CL 1857, 143;—CL 1871, 208;—How. 262;—CL 1897, 68;—CL 1915, 93;—CL 1929, 125;—CL 1948, 11.4.

EX OFFICIO MEMBERSHIP: The secretary of state is an ex officio member of the following boards:

Board of state auditors, R.S. 1846, Ch. 12, Secs. 44-48, being Compilers' §§ 19.44 to 19.48.

State administrative board, Act 2 of 1921, as amended, being Compilers' §§ 17.1 to 17.11.

Michigan state safety commission, Act 188 of 1941, as amended, being Compilers' §§ 256.561 to 256.563.

11.5 Deputy secretary of state; appointment, duties, salary.

Sec. 5. The secretary of state may appoint a deputy, and revoke such appointment at pleasure; and whenever the secretary of state shall, by reason of sickness, absence, or other cause, be disabled from executing the duties of his office, his deputy, duly appointed, shall execute the duties thereof until such disability be removed or until a secretary shall be appointed, and such deputy shall receive such salary as the secretary of state shall recommend, and as the legislature shall appropriate, payable monthly from the general fund in the state treasury, in the same manner that the salaries of other state officers are paid.

HISTORY: CL 1857, 144;—CL 1871, 209;—How. 263;—CL 1897, 69;—Am. 1907, p. 208, Act 156, Imd. Eff. June 17;—CL 1915, 94;—CL 1929, 126;—Am. 1933, p. 19, Act 22, Imd. Eff. Feb. 28;—CL 1948, 11.5.

Sec. 6.

HISTORY: CL 1857, 145;—CL 1871, 210;—How. 264;—CL 1897, 70;—CL 1915, 95;—CL 1929, 127;—Rep. 1933, p. 20, Act 22, Imd. Eff. Feb. 28.

This section established obsolete salary, and fees, and required secretary of state to keep his office at the capitol.

Act 151, 1929, p. 343; Eff. Aug. 28.

AN ACT to authorize the secretary of state to charge fees in certain cases, to prescribe the amount of said fees, to provide for their transfer to the state treasury, and to repeal certain acts.

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The People of the State of Michigan enact:

11.11 Fees; making and certifying of copies.

Sec. 1. There shall be paid to the department of state the following fees:

(a) For making and certifying to copies of any act or resolution of the legislature, or of any record, proceedings or papers kept in his office, $1.00 per folio of 100 words except such copies as have been printed by state authority. No fee for any such record or certified copy shall be less than $1.00.

(b) For all certificates and seals thereto, $1.00.

HISTORY: CL 1929, 128;—CL 1948, 11.11;—Am. 1966, p. 81, Act 57, Eff. Jul. 1.

This section supersedes Sec. 23 of Ch. 150 of R.S. 1846, being CL 1857, 5655;—CL 1871, 7451;—How. 9027;—CL 1897, 11232;—CL 1915, 14610, which, however, was not expressly repealed by this Act.

11.12 Fees; extradition.

Sec. 2. When, upon demand of the governor of any other state or territory, the governor of this state shall issue a warrant or order to the sheriff of any county to arrest and deliver any person charged with crime in such other state or territory, to the agent appointed by the executive authority making such demand, as provided by law, there shall be paid to the secretary of state, prior to the making and delivery of such warrant or order, by the agent or person to whom the same is to be delivered, as a fee for making the same, a sum equal to the amount required to be paid in such other state or territory for a like warrant made on demand of the executive authority of this state for the arrest and delivery of any person in such state or territory to the authorized agent of this state: Provided, That in case no such fee be charged in such other state or territory then no fee shall be required from the agent of such state or territory as aforesaid. The certified statement of the secretary of state or other proper officer of such other state or territory as to the amount of the fee so charged in such state or territory shall be evidence thereof.

HISTORY: CL 1929, 129;—CL 1948, 11.12.

EXTRADITION: On the subject of extradition generally, see Act 144 of 1937, being Compilers' §§ 780.1 to 780.31, and Secs. 6-13 of Ch. 16 of Act 175 of 1927, being Compilers' §§ 776.7 to 776.13.

11.13 Fees; credited to general fund.

Sec. 3. All fees collected under the provisions of this act shall be paid into the state treasury and placed to the credit of the general fund.

HISTORY: CL 1929, 130;—CL 1948, 11.13.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1929, 131;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 26.

ACTS REPEALED: Act 141, 1895, CL 1915, 96-98; Act 242, 1897, CL 1915, 99-101.

11.101 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section made appropriation for codification of motor vehicle laws.

Act 31, 1885, p. 25; Eff. Jun. 1.

AN ACT to repeal an act entitled "An act to promote immigration to Michigan," approved April third, 1869, and the act amendatory thereof, entitled "An act to amend sections 1 and 2 of an act entitled 'An act to promote immigration in Michigan,'" being compiler's sections 206 and 207 of the Compiled Laws of 1871, approved June tenth, 1881, and to abolish the office of commissioner of immigration as by said act and amendatory act provided for, and to transfer the books and archives of said office to the office of the secretary of state of the state of Michigan.

Secs. 1-2.

HISTORY: These sections repeal "An act to promote immigration to Michigan," approved April 3, 1869 (CL 1871, 206-7), and the act amendatory thereof, approved June 10, 1881, abolish the office of commissioner of immigration and transfer the books and archives of said office to the office of the secretary of state. How. 329a.

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11.113 Preservation of archives of office of commissioner of immigration.

Sec. 3. The books, maps, papers, and other documents constituting the archives of the office of commissioner of immigration shall be kept and preserved in the office of said secretary of state of this state, for future reference, and to constitute a part of the history of the state.

HISTORY: How. 3296;—CL 1897, 76;—CL 1915, 102;—CL 1929, 132;—CL 1948, 11.113.

11.131-11.134 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections created bureau of elections and provided for director and prescribed powers and duties.

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CHAPTER 12. STATE TREASURER

STATE TREASURER
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STATE TREASURER.

12.7 Official bond; amount, approval, filing, additional security.

Sec. 7. The state treasurer before entering upon the duties of his office shall give a bond to the people of the state in the sum of 300,000 dollars, with 3 or more resident freeholders as sureties, or with 1 or more surety companies authorized to transact business in this state as sureties, to be approved by the attorney general and the commissioner of insurance, which bond shall be filed in the office of the secretary of state. The attorney general and the commissioner of insurance whenever they deem the sureties on the bond of the state treasurer to be insufficient security for the said sum of 300,000 dollars may demand, and the state treasurer shall give additional bonds with sureties to be approved by the attorney general and the commissioner of insurance.

HISTORY: CL 1857, 154;—Am. 1861, p. 30, Act 36, Eff. June 15;—CL 1871, 221;—How. 265;—CL 1897, 77;—Am. 1909, p. 21, Act 15, Eff. Sept. 1;—CL 1915, 103;—CL 1929, 142;—CL 1948, 12.7.

EX OFFICIO MEMBERSHIP: The state treasurer is an ex officio member of the following boards:

Board of state auditors, R.S. 1846, Ch. 12, Secs. 44-48, being Compilers' §§ 19.44, 19.45 to 19.48.

State administrative board, Act 2 of 1921, as amended, being Compilers' §§ 17.1 to 17.11.

Corporation privilege tax appeal board, Sec. 9 of Act 85 of 1921, being Compilers' § 450.309.

Municipal finance commission, chairman, Sec. 1, Ch. 2, Act 202, 1943, as amended, being Compilers' § 132.1.

State Employes' retirement board, Sec. 3, Act 240, 1943, being Compilers' § 38.3.

Custodian of funds, public school employees retirement system, Sec. 8, Act 136, 1945, being Compilers' § 38.208.

Municipal employees retirement board, Sec. 3, Act 135, 1945, being Compilers' § 38.603.

12.8 Official bond; conditions.

Sec. 8. The condition of such bonds shall be, in substance, that the treasurer and all persons employed in his office, shall faithfully discharge their respective duties and trusts and that the said treasurer shall use all necessary and reasonable diligence and care in the safe keeping and lawful disposal of all sums of money, books, bonds, notes,

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papers, and all other things appertaining to said office, and which have or shall come to his hands, or to the hands of any person or persons employed by him; and that the said treasurer shall, upon reasonable notice, render a true account in the premises whenever he shall be thereunto required by any provision of law in that behalf, or by the senate or house of representatives, and shall deliver over to his successor in said office, or to any other person authorized by law to receive the same, all moneys, books, bonds, notes, papers, and all other things belonging to said office; and that all balances which shall appear against him, shall be forthwith paid into the treasury of the state.

HISTORY: CL 1857, 155;—CL 1871, 222;—How. 266;—CL 1897, 78;—CL 1915, 104;—CL 1929, 143;—CL 1948, 12.8.

12.9 Deputy state treasurer; appointment, duties, salary.

Sec. 9. The state treasurer may appoint a deputy, for whose acts he shall be responsible, and may revoke such appointment at pleasure; and such deputy may execute the duties of the office during the sickness or absence of the state treasurer, and shall receive a salary of 2,500 dollars per year, payable semi-monthly from the general fund in the state treasury, in the same manner that the salaries of other state officers are paid.

HISTORY: CL 1857, 156;—CL 1871, 223;—How. 367;—CL 1897, 79;—Am. 1913, p. 92, Act 65, Eff. Aug. 14;—CL 1915, 105;—CL 1929, 144;—CL 1948, 12.9.

SALARY: The legislature in its biennial appropriation provides for salaries of state officers and employees.

12.10 Vacancy in office of state treasurer; notice, sealing of property.

Sec. 10. Upon the death or resignation of the treasurer, or upon a vacancy in that office from any other cause, the secretary of state, with 2 suitable persons to be appointed by warrant under the hand and seal of the governor, shall repair to the place or places where the moneys, papers and other things belonging to the treasury are usually kept, and having previously given notice to the late treasurer, his heirs, executors or administrators, and to his sureties, or one of them, or to such of the said persons as may be found in the state to attend them, shall seal up and secure in their presence, if they shall attend, all such moneys, papers, and other things supposed to belong to the state.

HISTORY: CL 1857, 157;—CL 1871, 224;—How. 268;—CL 1897, 80;—CL 1915, 106;—CL 1929, 145;—CL 1948, 12.10.

12.11 Vacancy; list of all sealed containers, inventory.

Sec. 11. They shall then give such representatives or sureties, if required by them, a true list of all boxes and packages so sealed up and secured, and shall note on such list the places wherein the same are deposited; whereupon, as soon as it can be conveniently done, and after notice to the parties mentioned in the preceding section, they shall cause the said boxes and packages to be examined, and a true inventory to be taken of the said moneys, and of all bonds, notes, securities, books, and other things appertaining to said office, which shall be required by such late treasurer, or his representatives, or sureties or either of them.

HISTORY: CL 1857, 158;—CL 1871, 225;—How. 269;—CL 1897, 81;—CL 1915, 107;—CL 1929, 146;—CL 1948, 12.11.

12.12 Vacancy; duties of custodians; delivery to successor.

Sec. 12. A copy of such inventory shall be deposited by them in the secretary's office, and any copies that may be required shall be given to any of the parties mentioned in the preceding section; and they shall safely keep all moneys and other effects mentioned as aforesaid, until another treasurer shall be appointed, to whom, when qualified, they shall deliver over the same, taking duplicate receipts therefor, 1 of which receipts shall be deposited with the secretary, and the other shall be delivered to the said late treasurer or his legal representatives or sureties, or 1 of them.

HISTORY: CL 1857, 159;—CL 1871, 226;—How. 270;—CL 1897, 82;—CL 1915, 108;—CL 1929, 147;—CL 1948, 12.12.

12.13 Exhibit of accounts to legislative auditor.

Sec. 13. The treasurer, at such times as the legislative auditor may require, but not less often than once every 30 days, shall exhibit to the legislative auditor for his exami-

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nation, the cash and cash items in the treasury, and a true statement of all state treasurer cash balances.

HISTORY: CL 1857, 160;—Am. 1861, p. 31, Act 36, Eff. Jun. 15;—CL 1871, 227;—How. 271;—CL 1897, 83;—CL 1915, 109;—CL 1929, 148;—CL 1948, 12.13;—Am. 1966, p. 268, Act 178, Eff. Nov. 15.

12.14 Financial statement to legislature, publication.

Sec. 14. The treasurer shall make to the legislature, at its annual session in January in each year, and at such other times as he shall be required by either branch of the legislature, an exact statement of the balance in the treasury to the credit of the state, with a summary of the receipts and payments of the treasury during the preceding year; which annual statement he shall cause to be published with the laws of the session at which the same shall have been made.

HISTORY: CL 1857, 161;—CL 1871, 228;—How. 272;—CL 1897, 84;—CL 1915, 110;—CL 1929, 149;—CL 1948, 12.14.

REPORT: See Compilers' § 21.91.

12.15 Repealed. 1948, 2nd Ex. Ses., p. 9, Act 1, Eff. Jan. 1, 1949.

Section related to office location and salary of state treasurer.

Sec. 16.

HISTORY: CL 1857, 163;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 26. This section fixed December 1st as the beginning, and November 30th as the end of the fiscal year, but this was superseded by later legislation. For present law, see Compilers' § 21.91 et seq.

Act 79, 1917, p. 149; Imd. Eff. Apr. 17.

AN ACT to provide for the appointment of a cashier, bookkeeper, assistant bookkeeper, chief clerk and a securities clerk in the office of the state treasurer, and to fix the salaries thereof.

The People of the State of Michigan enact:

12.21 State treasurer office employees.

Sec. 1. The state treasurer shall have power to appoint a cashier, a bookkeeper, an assistant bookkeeper, a chief clerk and a securities clerk, who shall each perform such respective duties as the state treasurer may direct and require and who shall receive such salaries as shall be fixed by the state legislature. Said salaries shall be paid out of the general fund in the state treasury in the same manner as are the salaries of other employes of the state.

HISTORY: CL 1929, 151;—Am. 1933, p. 15, Act 18, Imd. Eff. Feb. 28;—CL 1948, 12.21.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 152;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 275, 1927, p. 521; Imd. Eff. May 31.

AN ACT to authorize the governor and state treasurer to refund the 6 per cent bonds secured by mortgage deed of trust of the Michigan state fair grounds; to call, pay and retire the outstanding bonds, and to issue new bonds to procure the funds to pay and retire said outstanding bonds.

The People of the State of Michigan enact:

12.31 Michigan state fair grounds bonds; retirement, new issue.

Sec. 1. The governor and the state treasurer are hereby authorized, empowered and directed to refund the outstanding 6 per cent bonds secured by mortgage deed of trust of the Michigan state fair grounds; to call, pay and retire the same, and to issue new bonds of the state of Michigan at the lowest rate of interest for which such money may be obtained for the purpose of paying, refunding, and retiring said state fair bonds:

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Provided, That the outstanding bonds shall not be called, paid and retired and new bonds issued to refund the same, unless the same can be effected at a saving to the state; said new and refunding bonds to be payable not more than 10 years from the date thereof.

HISTORY: CL 1929, 5639;—CL 1948, 12.31.

12.32 Refunding bonds; issuance, sale, proceeds, registration, cancellation.

Sec. 2. Said refunding bonds shall be issued and sold in such denominations as shall be determined by the governor and state treasurer; and the moneys derived from the issuance and sale thereof shall be used to call, pay and retire the bonds now outstanding, secured by a mortgage deed of trust of the state fair grounds. Said bonds shall be numbered consecutively and registered in a book provided therefor to be kept in the office of the auditor general. Such register shall contain the date of the bond, the number, to whom issued, and the amount of each bond. There shall also be kept in the office of the auditor general a register showing the date of each bond, and the number, amount and date each coupon is due, and the cancellation of such coupons as are paid with reference to the number of the voucher paying the same. Whenever any bond shall be paid, the same shall be cancelled by the state treasurer, and the auditor general shall keep a full record of all the bonds taken up and paid; and said bonds so paid shall also be cancelled by writing across the face of each bond the word "cancelled", which cancellation shall be signed by the auditor general and the state treasurer, and said bonds thus cancelled shall be filed with the voucher as a basis of the auditor general's warrant for their payment. The faith and credit of the state of Michigan is hereby pledged for the payment of the principal and interest of the bonds which may be issued under the provisions of this act.

HISTORY: CL 1929, 5640;—CL 1948, 12.32.

12.33 Refunding bonds; appropriation for interest.

Sec. 3. There is hereby appropriated out of the general fund, sufficient money to pay the interest on the refunding bonds hereby authorized to be issued and sold.

HISTORY: CL 1929, 5641;—CL 1948, 12.33.

12.34 Refunding bonds; additional taxes; sinking fund.

Sec. 4. For the purpose of providing for the payment of the bonds issued under this act, it shall be the duty of the auditor general to add to and incorporate in the state tax for the year 1927 an amount equal to 1/10 of the total par value of the bonds issued in pursuance of this act; and it shall be the duty of the auditor general to add to and incorporate in the state tax for each subsequent year the like sum until the several amounts levied and collected under this act shall become sufficient to pay and retire the bonds authorized herein; which said sums, when so levied and collected, shall be credited each year to the sinking fund for the retirement of the bonds herein authorized to be issued: Provided, That the last levy necessary under this act shall be for such sum only as may be necessary to extinguish the remainder of the debt evidenced by said bonds.

HISTORY: CL 1929, 5642;—CL 1948, 12.34.

12.35 Refunding bonds; advertisement of sale.

Sec. 5. Said bonds shall be publicly advertised for sale at such time and in such manner as the governor and the state treasurer may prescribe.

HISTORY: CL 1929, 5643;—CL 1948, 12.35.

Act 43, 1959, p. 46; Eff. Jan. 1, 1960.

AN ACT to transfer the warrant functions of the auditor general to the state treasurer; to provide for the transfer of staff, records, files and other property; to provide

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that hearings shall not be abated; to transfer appropriations and other funds; to prescribe the powers and duties of the auditor general and the state treasurer; and to fix the effective date of this act.

The People of the State of Michigan enact:

12.41 Auditor general's powers and duties as to warrants, garnishments; transfer to state treasurer.

Sec. 1. All powers and duties now vested by law in the auditor general with respect to the drawing and issuing of warrants are hereby transferred to and vested in the state treasurer. The state treasurer shall be vested with full authority to draw, issue or cause to issue warrants with reference to all matters as have heretofore been vested in the auditor general. The state treasurer is hereby vested with all the powers, duties, functions, responsibilities and jurisdiction now or hereafter conferred on the auditor general with respect to actions in garnishment. Whenever any reference is made in the laws of this state to the auditor general with respect to warrants, and with respect to actions in garnishment, such reference shall be deemed intended to be made to the state treasurer. The powers and duties of the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall be terminated upon the effective date of this act.

HISTORY: New 1959, p. 46, Act 43, Eff. Jan. 1, 1960.

12.42 Transfer of staff, records, files, property, and trusts.

Sec. 2. All of the staff, records, files and other property, including property held in trust, belonging to the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall be transferred to the state treasurer and shall be continued as part of the staff, records, files and property of the office of the state treasurer.

HISTORY: New 1959, p. 47, Act 43, Eff. Jan. 1, 1960.

12.43 Transfer of hearings, orders, rules and regulations.

Sec. 3. All hearings and proceedings of whatever nature now pending before the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall not be abated, but shall be transferred to the state treasurer, without notice to interested parties, and shall be conducted in the same manner and determined in accordance with the provisions of law concerning such hearings and proceedings. All orders, rules and regulations of the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall continue in effect as though the transfer were not made and, to the extent applicable, they shall be binding upon the state treasurer.

HISTORY: New 1959, p. 47, Act 43, Eff. Jan. 1, 1960.

12.44 Transfer of appropriations.

Sec. 4. All appropriations and all other funds necessary to carry out the powers and duties of the auditor general with respect to drawing and issuing of warrants and with respect to actions in garnishment shall be transferred to the state treasurer.

HISTORY: New 1959, p. 47, Act 43, Eff. Jan. 1, 1960.

12.45 Continuance of services and functions during transfer.

Sec. 5. The auditor general and the state treasurer shall make all other arrangements as are necessary to provide for the uninterrupted conduct of the services and functions of government as prescribed by this act.

HISTORY: New 1959, p. 47, Act 43, Eff. Jan. 1, 1960.

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12.46 Effective date of transfer.

Sec. 6. The provisions of this act shall take effect on January 1, 1960.

HISTORY: New 1959, p. 47, Act 43, Eff. Jan. 1, 1960.

Act 55, 1967, p. 72; Imd. Eff. Jun. 16.

AN ACT relating to the management of state funds; to prescribe the powers and duties of the state treasurer and the state administrative board; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

12.51 Transfer of cash on hand; approval; advance appropriations, approval.

Sec. 1. In order that state obligations may be paid as they become due, the state treasurer, with the approval of the state administrative board, may transfer cash on hand and on deposit among the various funds in the state treasury in such manner as to best manage the available cash on hand. Notwithstanding the provisions of any other act to the contrary, no advance appropriations shall be made to any municipality as defined in section 2 of Act No. 202 of the Public Acts of 1943, as amended, being section 131.2 of the Compiled Laws of 1948, without the approval of the state administrative board.

HISTORY: New 1967, p. 72, Act 55, Imd. Eff. Jun. 16.

12.52 Relief of state treasurer from liability.

Sec. 2. In carrying out the duties imposed under section 1, the state treasurer shall be relieved from all legal liabilities which might attach to his actions.

HISTORY: New 1967, p. 72, Act 55, Imd. Eff. Jun. 16.

12.53 Repeals.

Sec. 3. Act No. 46 of the Public Acts of 1962, being sections 12.81 to 12.83 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1967, p. 73, Act 55, Imd. Eff. Jun. 16.

12.71-12.74. Expired March 31, 1960.

Sections (Sections 1-4, Act 35, 1959, p. 38, Eff. May 14) provided for management of state funds, and prescribed powers and duties of state treasurer and state administrative board thereto. Sections expired March 31, 1960 by terms of act.

12.81-12.83 Repealed. 1967, p. 73, Act 55, Imd. Eff. Jun. 16.

Sections provided for management of state funds and prescribed powers and duties of state treasurer and state administrative board.

Act 3, 1952, p. 4; Eff. Sep. 18.

AN ACT imposing service fees on real estate mortgages deposited as collateral security in the state treasury; and to provide for the disposition of revenue received therefrom.

The People of the State of Michigan enact:

12.101 Deposit of real estate mortgage as collateral security fees; credited to general fund.

Sec. 1. Any person, firm or corporation who shall deposit in the state treasury as collateral security any real estate mortgage, whether such deposit is required by any law of this state or is made voluntarily, shall pay to the state treasurer an initial service fee of $5.00 for each such mortgage at the time of making such deposit. In addition, each such person, firm or corporation shall on the first business day of December of each

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year pay to the state treasurer an annual service fee at a rate to be determined by the state treasurer to be computed on the mean average monthly principal balance of the mortgages belonging to such owner on deposit with the state treasurer during the 12 calendar months next preceding such payment sufficient to reimburse the state treasurer for not less than all actual and necessary expenses incurred in connection with such deposit. All sums paid to the state treasurer under the provisions of this act shall be credited to the general fund of the state.

HISTORY: New 1952, p. 4, Act 3, Eff. Sep. 18;—Am. 1967, p. 112, Act 94, Imd. Eff. Jun. 21.

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CHAPTER 13. AUDITOR GENERAL

AUDITOR GENERAL

Ch. 12, R.S. 1846 (cont'd.)

13.17 Liquidation of claims against state.
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13.52 Abstracts of land sold for taxes; application by county.
13.53 Abstracts of land sold for taxes; county register of deeds; transcription of abstracts; copies; fees.

AUDIT OF CLAIMS

Act 3 of 1921

13.61, 13.62 Repealed.

R.S. 1846, Ch. 12 (continued).

AUDITOR GENERAL.

13.17 Liquidation of claims against state.

Sec. 17. The auditor general shall state all accounts, and examine and liquidate the claims of all persons against the state in cases provided for by law, and give his warrant therefor; and in cases of claims against the state which cannot be liquidated by him, or by the board of state auditors, without further legislative provision, he shall examine and report the same, with the facts relating thereto, to the legislature, with his opinion thereon.

HISTORY: CL 1857, 169;—CL 1871, 243;—How. 274;—CL 1897, 88;—CL 1915, 114;—CL 1929, 156;—CL 1948, 13.17.

EX OFFICIO MEMBERSHIP: The auditor general is an ex officio member of the following boards:

State administrative board, Act 2 of 1921, as amended, being Compilers' §§ 17.1 to 17.11.

Secretary of corporation privilege tax appeal board, Sec. 9 of Act 85 of 1921, being Compilers' § 450.309.

Municipal finance commission, Sec. 1, Ch. 2, Act 202, 1943, as amended, being Compilers' § 132.1.

13.18 State debtors; warrants on state treasury.

Sec. 18. He shall also examine, adjust and settle the claims of all persons indebted to the state; and when there shall be any account liquidated, showing any amount to be due to any person, for the payment whereof an appropriation shall have been made by law, he shall draw his warrant on the treasury therefor.

HISTORY: CL 1857, 170;—CL 1871, 244;—How. 275;—CL 1897, 89;—CL 1915, 115;—CL 1929, 157;—CL 1948, 13.18.

13.19 Moneys paid from or into state treasury; receipts, countersignature.

Sec. 19. No moneys shall be paid out of the state treasury except on the warrant of the auditor general; and all receipts for money paid to the treasurer, shall be taken to the auditor general, who shall countersign the same and enter them in the proper book in his office for that purpose, to the credit of the person by whom such payment shall be made, and no such receipt, unless countersigned, shall be evidence of such payment.

HISTORY: CL 1857, 171;—CL 1871, 245;—How. 276;—CL 1897, 90;—CL 1915, 116;—CL 1929, 158;—CL 1948, 13.19.

13.20 Account between state and treasurer.

Sec. 20. The auditor general shall keep an account in proper books to be provided by him for that purpose, between the state and the treasurer, charging therein to the treasurer the balance in the treasury, and all moneys received by him, and giving him credit therein on the first Tuesday in every month, for all warrants paid by him, which

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warrants shall thereupon be cancelled by the auditor general; and he shall also keep an account of all outstanding warrants not paid by the treasurer.

HISTORY: CL 1857, 172;—CL 1871, 246;—How. 277;—CL 1897, 91;—CL 1915, 117;—CL 1929, 159;—CL 1948, 13.20.

13.21 State treasurer's deficiencies; report to the governor.

Sec. 21. They shall on the first Tuesday in each month and at any other time when they may deem it necessary, examine the treasurer's account of moneys received, and of moneys paid out by him and the moneys in the treasury, and if on examining such account and such moneys they shall discover any irregularity or deficiency therein they shall as soon thereafter as may be report in writing the nature and extent of such irregularity or deficiency to the governor so that the same may be submitted to the legislature, if, in the opinion of the governor the interests of the state shall require it.

HISTORY: CL 1857, 173;—Am. 1861, p. 31, Act 36, Eff. June 15;—CL 1871, 247;—How. 278;—CL 1897, 92;—CL 1915, 118;—CL 1929, 160;—CL 1948, 13.21.

The pronoun "they" comes from the amendment of 1861 to this and Compilers' § 12.13 whereby the commissioner of the land office was associated with the auditor general in this examination.

13.22 Statement of funds of the state to legislature; contents.

Sec. 22. The auditor general shall make to the legislature, at its session in January in each year, and at such other times as he shall be required by either branch of the legislature, a complete statement of the funds of the state, and of the revenue thereof, and of the amount of salaries of the officers of the government, and of other contingent expenses, and other appropriations for the year preceding, and recommend such improvements in the financial system of the state as he may deem expedient.

HISTORY: CL 1857, 174;—CL 1871, 248;—How. 279;—CL 1897, 93;—CL 1915, 119;—CL 1929, 161;—CL 1948, 13.22.

13.23 Collection of state revenue laws; distribution.

Sec. 23. He shall from time to time transmit copies of all laws that may be made relative to the collection of the state revenue, as soon as the same shall be published in the newspapers in which they are authorized to be printed, to the officers concerned in carrying the same into effect.

HISTORY: CL 1857, 175;—CL 1871, 249;—How. 280;—CL 1897, 94;—CL 1915, 120;—CL 1929, 162;—CL 1948, 13.23.

COMPILERS' NOTE: The laws are not now published by the State in newspapers.

13.24 Instructions to revenue collectors, publication.

Sec. 24. He shall also draw up instructions for the government of the officers concerned in the collection of the revenue, in the premises; which instructions, certified by the attorney general to be in accordance with law, shall be binding upon such officers; and the publishers of the laws of this state shall publish such instructions, and furnish the auditor general with so many copies thereof as he may deem necessary.

HISTORY: CL 1857, 176;—CL 1871, 250;—How. 281;—CL 1897, 95;—CL 1915, 121;—CL 1929, 163;—CL 1948, 13.24.

13.25 Location of office, salary, expenses.

Sec. 25. The auditor general shall keep his office at the seat of government. He shall not directly or indirectly receive any fees, mileage, or perquisites whatever for the performance of duties connected with his office excepting actual personal expenses while away from the seat of government in the discharge of his official duties.

HISTORY: CL 1857, 177;—CL 1871, 251;—How. 282;—CL 1897, 96;—CL 1915, 122;—CL 1929, 164;—Am. 1933, p. 14, Act 16, Imd. Eff. Feb. 28;—CL 1948, 13.25.

13.26 Deputy auditor general; appointment, duties, salary.

Sec. 26. The auditor general may appoint a deputy for whose acts he shall be responsible, and may revoke such appointment at pleasure; and such deputy may execute the duties of the office during the sickness or absence of the auditor general, and

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shall receive such salary as shall be fixed by the state legislature, payable monthly from the general fund in the state treasury, in the same manner that the salaries of other state officers are paid.

HISTORY: CL 1857, 178;—CL 1871, 252;—How. 283;—CL 1897, 98;—Am. 1907, p. 208, Act 156, Imd. Eff. June 17;—CL 1915, 125;—CL 1929, 165;—Am. 1933, p. 14, Act 16, Imd. Eff. Feb. 28;—CL 1948, 13.26.

Sec. 27.

HISTORY: Am. 1851, p. 171, Act 138, Imd. Eff. April 7;—CL 1857, 179. This section authorized the employment of additional clerks, but was superseded by Sec. 1 of Act 173 of 1871 which was repealed by Act 309 of 1929, being CL 1929, 121.

Act 309, 1917, p. 768; Eff. Aug. 10.

AN ACT to provide for the appointment of a chief clerk, an assistant chief clerk, an abstract clerk, a chief bookkeeper and an assistant bookkeeper in the office of the auditor general, and to fix the salaries thereof.

The People of the State of Michigan enact:

13.31 Employees; salary.

Sec. 1. The auditor general shall appoint a chief clerk, an assistant chief clerk and an abstract clerk, a chief bookkeeper and an assistant bookkeeper who shall each perform such respective duties as the auditor general may direct and require, who shall receive such salaries as shall be appropriated by the legislature. Said salaries shall be paid out of the general fund in the state treasury in the same manner as are the salaries of other employes of the state.

HISTORY: CL 1929, 170;—Am. 1933, p. 23, Act 25, Imd. Eff. March 7;—CL 1948, 13.31.

EMPLOYES: Right to purchase state lands, see Compilers' § 322.271.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 171;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 132, 1869, p. 227; Imd. Eff. Apr. 3.

AN ACT to establish the rate of fees to be charged by the auditor general, for furnishing transcripts, lists, abstracts, and certificates.

The People of the State of Michigan enact:

13.41 Fees for transcripts; minimum charge; free certified copies and transcripts.

Sec. 1. The auditor general shall make, or cause to be made, on proper application, and for the benefit of the parties interested, transcripts of any papers or records on file in his office, upon payment by the applicant of the following fees: For abstracts of taxes on any description of land 10 cents for each year covered by such abstract; for abstract with statement of name and residence of taxpayer, 25 cents per year for each description of land; for list of state tax lands or state bids, 10 cents for each description of land therein; for 1 copy of any paper or document, at the rate of 50 cents per 100 words; for each certificate, 25 cents: Provided, That in no case shall any abstract, lists, or copy, made as required by this act, be furnished for a less sum than 50 cents; and such fees when collected shall be paid into the state treasury, and placed to the credit of the general fund. For the certificate required by section 141 of Act No. 206 of the Public Acts of 1893, as amended, being section 211.141 of the Compiled Laws of 1948, the auditor general shall receive 50 cents for each such certificate issued. In all cases when receipts, showing the payment of taxes returned delinquent are presented to the auditor general for cancelment or rejection of such taxes, and to be filed as a voucher therefor, he shall issue certified copies of the same without charge. In cases where

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transcripts of such receipts are made of such portion necessary to be filed as voucher, the auditor general shall make and file such transcript without charge.

HISTORY: CL 1871, 254;—Am. 1877, p. 18, Act 27, Eff. Aug. 21;—How. 285;—CL 1897, 100;—CL 1915, 128;—CL 1929, 172;—CL 1948, 13.41;—Am. 1958, p. 61, Act 57, Eff. Sep. 13.

FEES: Retention unlawful, see Compilers' § 750.488.

Act 23, 1877, p. 15; Eff. Aug. 21.

AN ACT to provide for the making of abstracts of lands, sold for taxes and unredeemed, by the auditor general.

The People of the State of Michigan enact:

13.51 Abstracts of land sold for taxes; service for counties; fees; contents.

Sec. 1. That the auditor general shall make, or cause to be made, on proper application, for the benefit of any county in the state, complete abstracts of all lands sold for taxes and unredeemed in such county, giving in such abstracts the date of sale, the year of the tax, amount for which sold, the name and residence of the person or persons to whom sold, and, if deeded, the name and residence of the person or persons to whom deeded; which abstracts shall, on like application be supplemented annually thereafter; for which service the auditor general shall receive for the use and benefit of the state from any county so applying, 1 cent for each description of land for each year so abstracted.

HISTORY: How. 1214;—CL 1897, 101;—CL 1915, 129;—CL 1929, 173;—CL 1948, 13.51.

13.52 Abstracts of land sold for taxes; application by county.

Sec. 2. Such abstracts shall be made upon application of the board of supervisors of any county; payment therefor being made by the county so applying.

HISTORY: How. 1215;—CL 1897, 102;—CL 1915, 130;—CL 1929, 174;—CL 1948, 13.52.

13.53 Abstracts of land sold for taxes; county register of deeds; transcription of abstracts; copies; fees.

Sec. 3. The register of deeds of each county procuring such abstracts, shall provide the necessary book, at the expense of the county, in which he shall transcribe such tax abstracts; for which service he shall receive from the county 1/2 cent for each description of land for each year transcribed, and such register of deeds shall furnish to any person applying, copies of such abstracts, upon payment of 3 cents for each description of land for each year so abstracted.

HISTORY: How. 1216;—CL 1897, 103;—CL 1915, 131;—CL 1929, 175;—CL 1948, 13.53.

13.61, 13.62 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for auditing and payment of claims against the state.

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CHAPTER 14. ATTORNEY GENERAL

ATTORNEY GENERAL

Ch. 12, R.S. 1846 (cont'd.)

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R.S. 1846, Ch. 12 (continued).

ATTORNEY GENERAL.

14.28 Representation of state; designation of solicitor general.

Sec. 28. The attorney general shall prosecute and defend all actions in the supreme court, in which the state shall be interested, or a party; he may, in his discretion, designate one of the assistant attorneys general to be known as the solicitor general, who, under his direction, shall have charge of such causes in the supreme court and shall perform such other duties as may be assigned to him; and the attorney general shall also, when requested by the governor, or either branch of the legislature, and may, when in his own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

HISTORY: CL 1857, 180;—CL 1871, 255;—How. 286;—CL 1897, 104;—CL 1915, 132;—Am. 1921, p. 723, Act 394, Eff. Aug. 18;—CL 1929, 176;—Am. 1939, p. 272, Act 144, Imd. Eff. May 26;—CL 1948, 14.28.

EX OFFICIO MEMBERSHIP: The attorney general is an ex officio member of the following boards and commissions:

State administrative board, Act 2 of 1921, as amended, being Compilers' §§ 17.1 to 17.11.

Chairman of corporation privilege tax appeal board, Sec. 9 of Act 85 of 1921, being Compilers' § 450.309.

Municipal finance commission, Sec. 1, Ch. 2, Act 202, 1943, as amended, being Compilers' § 132.1.

State employes' retirement board, Sec. 3, Act 240, 1943, being Compilers' § 38.3.

For right of the deputy attorney general to serve on boards and commissions of which the attorney general is an ex officio member, see Compilers' § 14.41.

INTERVENTION: See also Sec. 1 of Act 232 of 1919, being Compilers' § 14.101.

14.29 Suits involving state departments.

Sec. 29. It shall be the duty of the attorney general, at the request of the governor, the secretary of state, the treasurer or the auditor general, to prosecute and defend all suits relating to matters connected with their departments.

HISTORY: CL 1857, 181;—CL 1871, 256;—How. 287;—CL 1897, 105;—CL 1915, 133;—CL 1929, 177;—CL 1948, 14.29.

14.30 Supervision of prosecutors; report to legislature.

Sec. 30. The attorney general shall supervise the work of, consult and advise the prosecuting attorneys, in all matters pertaining to the duties of their offices; and he shall make and submit to the legislature, at the commencement of its session, a report of all official business done by him during the 2 years preceding, specifying the suits to which he has attended, the number of persons prosecuted, the crimes for which, and the counties where such prosecutions were had, the results thereof, and the punishments awarded.

HISTORY: CL 1857, 182;—CL 1871, 257;—How. 288;—CL 1897, 106;—CL 1915, 134;—Am. 1921, p. 723, Act 394, Eff. Aug. 18;—CL 1929, 178;—CL 1948, 14.30.

PROSECUTING ATTORNEY'S ASSOCIATION: Duty to keep prosecutors informed of matters relating to their office, through medium of attorney general's department, see Compilers' § 49.62.

14.31 Annual report to legislature; abstract of prosecutor's reports.

Sec. 31. The attorney general shall include in his annual report, an abstract of the annual reports of the several prosecuting attorneys.

HISTORY: CL 1857, 183;—CL 1871, 258;—How. 289;—CL 1897, 107;—CL 1915, 135;—CL 1929, 179;—CL 1948, 14.31.

14.32 Opinions for state officials; failure of prosecutors to file annual reports.

Sec. 32. It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer, and also to notify the county treasurer of the proper county, of the neglect or refusal of any prosecuting attorney to make the annual report to the attorney general required of him by law.

HISTORY: CL 1857, 184;—CL 1871, 259;—How. 290;—CL 1897, 108;—CL 1915, 136;—CL 1929, 180;—CL 1948, 14.32.

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14.33 Moneys received payable to treasury.

Sec. 33. All moneys received by the attorney general, for debts due, or penalties forfeited to the people of this state, shall be paid by him, immediately after the receipt thereof, into the treasury.

HISTORY: CL 1857, 185;—CL 1871, 260;—How. 291;—CL 1897, 109;—CL 1915, 137;—CL 1929, 181;—CL 1948, 14.33.

MONEYS PAYABLE TO STATE TREASURY: As to paying money into state treasury, see Compilers' §§ 14.131 to 14.134.

14.34 Record of participation in actions; delivery to successor.

Sec. 34. The attorney general shall keep, in proper books to be provided for that purpose at the expense of the state, a register of all actions or demands prosecuted or defended by him in behalf of the people of this state, and of all proceedings had in relation thereto, and shall deliver the same to his successor in office.

HISTORY: CL 1857, 186;—CL 1871, 261;—How. 292;—CL 1897, 110;—CL 1915, 138;—CL 1929, 182;—CL 1948, 14.34.

14.35 Salary; assistants; service on commissions.

Sec. 35. The attorney general shall receive such annual salary as shall be provided by law, and his actual necessary expenses. In addition to a deputy provided by law, the attorney general may appoint such assistant attorneys general as he may deem necessary, and who when appointed to such office shall take and subscribe the constitutional oath of office. Any such assistant attorney general may, when designated thereto by his principal, serve in the place of the attorney general as a member of the public debt commission created by Act No. 13, Public Acts of 1932, Extra Session, and on any other board or commission of which the attorney general is now or may hereafter be an ex officio member, appear for the state in any suit or action before any court or administrative body, or before any grand jury, with the same powers and duties and in like cases as the attorney general, but shall at all times be subject to the orders and directions of the attorney general. Such assistants shall hold office at the pleasure of the attorney general.

HISTORY: Am. 1847, p. 168, Act 105, Imd. Eff. Mar. 17;—CL 1857, 187;—CL 1871, 262;—How. 293;—CL 1897, 111;—CL 1915, 139;—Am. 1921, p. 723, Act 394, Eff. Aug. 18;—CL 1929, 183;—Am. 1939, p. 463, Act 248, Imd. Eff. Jun. 15;—CL 1948, 14.35;—Am. 1948, 2nd Ex. Sess., p. 9, Act 2, Imd. Eff. Dec. 9.

NOTE: Act 13 of 1932, 1st Ex. Sess., above referred to, was repealed by Act 202 of 1943; also see Sec. 1, of Ch. 2 of Act 202 of 1943.

This section was listed in Act 211 of 1927 to repeal obsolete and inoperative laws. Act 211 of 1927 was held to have repealed nothing in C. N. Ry. Corp. v. Secy. of State, 241 Mich. 457, 217 N.W. 334. This section was not repealed by Act 309 of 1929, being CL 1929, 121, enacted to repeal obsolete and inoperative laws.

SALARY: Attorney general, see Const. V, 23.

ASSISTANT ATTORNEYS GENERAL: Assistant in charge of collection department, see Compilers' § 14.132.

Public administrator to be an assistant attorney general, see Compilers' § 720.201.

Assistant in charge of enforcement of food and drug laws, see Compilers' § 289.7.

SAME: OATH OF OFFICE: Form, see Const. XI, 1.

Act 153, 1917, p. 280; Imd. Eff. May 1.

AN ACT to authorize the appointment of a deputy attorney general, to define the powers and duties thereof, to provide an appropriation to pay the salary of the attorney general and the deputy, clerks, and assistants in such department, and to repeal Act 72 of the Public Acts of 1897, entitled "An act authorizing the appointment of a deputy attorney general," being section 140 of the Compiled Laws of 1915; and Act No. 87 of the Public Acts of 1891, entitled "An act to provide for the appropriation of money to pay the salary of the attorney general, clerks and certain expenses in such department, and to provide the manner and condition of payment and to repeal all acts and parts of acts contravening the provisions of this act," being section 143 of the Compiled Laws of 1915; and all other acts and parts of acts contravening the provisions of this act.

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The People of the State of Michigan enact:

14.41 Deputy attorney general; appointment, duties.

Sec. 1. The attorney general may appoint a deputy for whose acts he shall be responsible and may revoke such appointment at pleasure. Such deputy shall take the constitutional oath of office and shall perform such duties in the attorney general's department as may be assigned to him. During the sickness, absence or other disability of the attorney general, such deputy may execute and perform all of the duties of said office. He may also serve in place of the attorney general as a member of the Michigan securities commission, created by Act 46 of the Public Acts of 1915, and other boards and commissions of which the attorney general now is or may hereafter be an ex-officio member.

HISTORY: CL 1929, 184;—CL 1948, 14.41.

This section supersedes Act 72 of 1897, being CL 1915, 140.

NOTE: Act 46 of 1915, above referred to, was repealed by Act 220 of 1923, being Compilers' § 451.101 et seq.

The Michigan securities commission has been abolished and superseded by the Michigan corporation and securities commission, see Compilers' § 451.101 which was repealed and superseded by Act 265 of 1964.

Reference in last portion of title to CL 1915, 143 should read to CL 1915, 143-146.

EX OFFICIO MEMBERSHIP: See note to Compilers' § 14.28.

DUTIES: The assistant attorney general in charge of food and drug law enforcement is given the authority of the deputy in relation to such work, see Compilers' § 289.7.

14.42 Department appropriation.

Sec. 2. There is hereby appropriated out of any moneys in the general fund of the state treasury and not otherwise appropriated the following sums annually for the payment of salaries and expenses in the attorney general's department: For the salary of the attorney general such sum as is designated by the Constitution of the state; for the salaries of the deputy attorney general and the assistants and clerks in said department, which salaries shall be fixed by the attorney general, the sum of 27,500 dollars to be paid in accordance with the accounting laws of the state; for the necessary expenses of the attorney general and to pay extra help and expenses, if any are necessary, such further sum as the board of state auditors may allow.

HISTORY: CL 1929, 185;—CL 1948, 14.42.

This section supersedes Sec. 1 of Act 87 of 1891, being CL 1915, 143.

ATTORNEY GENERAL: Salary, see Const. V, 23.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1929, 186;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Act 72, 1897, CL 1915, 140; Act 87, 1891, CL 1915, 143-146.

Act 232, 1919, p. 418; Eff. Aug. 14.

AN ACT to supplement the laws of the state relating to the powers and duties of the attorney general and the institution and prosecution of actions thereby on behalf of the state, to authorize intervention in pending litigation on behalf of the people in certain cases, and to permit the bringing of any suit at law in which the state is a party plaintiff in the circuit court of Ingham county.

The People of the State of Michigan enact:

14.101 Intervention; authorization.

Sec. 1. The attorney general of the state is hereby authorized and empowered to intervene in any action heretofore or hereafter commenced in any court of the state whenever such intervention is necessary in order to protect any right or interest of the

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state, or of the people of the state. Such right of intervention shall exist at any stage of the proceeding, and the attorney general shall have the same right to prosecute an appeal, or to apply for a re-hearing or to take any other action or step whatsoever that is had or possessed by any of the parties to such litigation.

HISTORY: CL 1929, 187;—CL 1948, 14.101.

INTERVENTION: See also Compilers' § 14.28.

14.102 Intervention; venue of actions at law, service of process.

Sec. 2. Any action at law brought by the attorney general in the name of the state or of the people of the state, for the use and benefit thereof, may be begun in the circuit court in and for the county of Ingham, and may be prosecuted to final judgment and satisfaction thereof, with like effect as though the cause of action arose in such county. In any such case process issued out of and under the seal of said court may be served anywhere within the state of Michigan.

HISTORY: CL 1929, 188;—CL 1948, 14.102.

Act 153, 1897, p. 187; Imd. Eff. May 21.

AN ACT to provide for the payment of expenses in matters in which the state is a party or interested.

The People of the State of Michigan enact:

14.111 Expenses when attorney general appears in cases for state; authorization.

Sec. 1. That in all cases where the state is a party or interested, in which the attorney general participates, whenever it becomes necessary to subpoena witnesses, or to defray other necessary expenses of such litigation, the attorney general is hereby authorized to present a voucher for the amount that he deems necessary, to the auditor general, and the auditor general shall thereupon draw his warrant upon the state treasurer for said amount, and the state treasurer shall pay the same to the attorney general out of any moneys not otherwise appropriated in the treasury.

HISTORY: CL 1897, 11300;—CL 1915, 14612;—CL 1929, 189;—CL 1948, 14.111.

This and the following section were expressly excepted from the repeal of Ch. 312, CL 1897, by Act 314 of 1915 (Jud. Act).

14.112 Expenses when attorney general appears in cases for state; statement filed with auditor general.

Sec. 2. The attorney general shall prepare a full, complete and itemized statement of the expenses as to how and for what purpose said money was expended. Such itemized bill, after having been audited, shall be filed in the office of the auditor general, and the amount not expended shall be returned to the state treasurer.

HISTORY: CL 1897, 11301;—CL 1915, 14613;—CL 1929, 190;—CL 1948, 14.112.

COSTS: Costs when attorney general institutes criminal proceedings in counties, see Compilers' § 775.21.

Act 375, 1927, p. 895; Imd. Eff. Jun. 2.

AN ACT to provide for the collection of past due moneys and accounts belonging to the state of Michigan; to create a department therefor; to prescribe the duties of state officers, departments, commissions and institutions in relation thereto; and to make appropriations for defraying the expenses thereof.

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The People of the State of Michigan enact:

14.131 Collection department; creation, control by attorney general.

Sec. 1. There is hereby created a collection department under the supervision and control of the attorney general for the purpose of collecting all past due moneys and accounts which are owing to the state of Michigan or any department, commission or institution thereof.

HISTORY: CL 1929, 191;—CL 1948, 14.131.

CITED IN OTHER SECTIONS: Sections 14.131 to 14.134 are cited in § 205.13.

14.132 Employees; bond.

Sec. 2. The attorney general shall designate and appoint 1 or more assistant attorneys general and such clerks, stenographers and employees as may be necessary to carry out the provisions of this act. Such assistant attorneys general shall give a bond to the state of Michigan in the penal sum of 30,000 dollars each, to be filed with the secretary of state, conditioned to fully account for and pay over all moneys collected under the terms of this act. The said collection department shall be under the direction and control of the attorney general, subject to the general supervision of the state administrative board.

HISTORY: CL 1929, 192;—CL 1948, 14.132.

14.133 Forwarding of accounts; records; reports.

Sec. 3. It shall be the duty of every state officer, department, institution or commission from time to time to forward to said collection department statements of all delinquent and past due moneys, specific taxes and accounts owing or belonging to the state of Michigan, or any department, commission or institution thereof, together with such information as may be necessary to enable said department to carry out the purposes of this act. It shall be the duty of said collection department to keep an accurate record and account of all such statements; to enforce payment and collection thereof; to keep an accurate account of all moneys collected; to report monthly all collections made to the auditor general and also the department, commission or institution to which such indebtedness has been incurred; and to pay over monthly to the state treasurer all moneys collected unless otherwise provided by law.

HISTORY: CL 1929, 193;—CL 1948, 14.133.

FOOD AND DRUG FEES: Collection, see Compilers' §§ 289.71 to 289.73.

14.134 Litigation; settlement, and compromise of claims and accounts.

Sec. 4. For the purpose of carrying out the provisions of this act the said collection department is hereby authorized and empowered to bring suits, to settle and compromise all such claims and accounts and to receive and receipt for all such collections and payments; the same to be under the direction of the attorney general and subject to the supervisory control of the state administrative board: Provided, That no claim or account in the amount of more than 100 dollars shall be compromised or settled at a greater discount than 15 per cent, without the approval of the state administrative board.

HISTORY: CL 1929, 194;—CL 1948, 14.134.

Act 52, 1929, p. 92; Eff. Aug. 28.

AN ACT to authorize the attorney general to institute an investigation, examination and/or audit of the books, records and accounts of any township or school district or any public officer thereof, and to provide penalties for the violation of this act.

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The People of the State of Michigan enact:

14.141 Investigation of books of township or school district or public officer thereof; procedure; duty of auditor general.

Sec. 1. Whenever in the opinion of the attorney general it shall appear that public interest requires an investigation, examination and/or audit of the books, records and accounts of any township or school district or any public officer thereof he may institute the same as provided herein. Such investigation, examination and/or audit shall not be ordered unless the same shall be requested in writing signed by at least 25 per cent of the registered electors of the township or school district setting forth specifically and in detail the reason therefor. Upon receipt of such request the attorney general may proceed and for that purpose may request the assistance of the auditor general or any of his clerks or assistants in the accounting division and may also call upon the prosecuting attorney of the county wherein such investigation, examination and/or audit is sought to be made for such help as he may deem necessary. It shall be the duty of the auditor general, his clerks or assistants and the prosecuting attorney to comply with such request. Fifty per centum of the expenses of the auditor general's department with respect to such investigation, examination, and/or audit shall be a charge against the township or school district, and shall be paid from the general fund of the school district or the contingent fund of the township.

HISTORY: CL 1929, 195;—Am. 1939, p. 33, Act 20, Imd. Eff. March 23;—CL 1948, 14.141.

14.142 Investigation of books; production of records; witnesses; orders and subpoenas.

Sec. 2. Upon demand of the attorney general, the auditor general or any person designated by him for the purpose of this act or of the prosecuting attorney as provided in section 1, it shall be the duty of any and all officers of the township or school district wherein such investigation, examination and/or audit is sought to be made to produce, for inspection and examination, the books of account and papers of their respective offices, and to truthfully answer all questions relating thereto. In connection with such examination, the attorney general, auditor general, or any person designated by him to make such investigation, examination and/or audit, or the prosecuting attorney, may issue subpoenas, direct the service thereof by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine such persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by any person charged with the duty of making the investigation, examination and/or audit herein provided, in pursuance of the authority in them vested by provision of this section, may be enforced upon their application to any circuit court by proceedings in contempt therein, as provided by law.

HISTORY: CL 1929, 196;—CL 1948, 14.142.

14.143 Investigation of books; filing of report; criminal and civil proceedings; cause for removal of attorney general.

Sec. 3. A report shall be made in triplicate of the examination made in accordance with the provisions of this act. The report shall be signed and verified by the person making the investigation, examination and/or audit. One copy thereof shall be filed with the auditor general, 1 copy with the attorney general, and 1 copy with the county clerk of the county in which the investigation, examination and/or audit is made. If any such investigation, examination and/or audit discloses malfeasance, misfeasance, nonfeasance or gross neglect of duty on the part of any officer or officers of the political unit being examined, for which a criminal penalty is provided by law, the attorney general or upon his direction the prosecuting attorney of the county wherein such examination is had shall, within 60 days after receipt of such report, institute criminal proceedings against such officer or officers. It shall also be the duty of the attorney

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general or the prosecuting attorney, as the case may be, to institute civil action in any court of competent jurisdiction for the recovery of any public moneys disclosed by any such investigation, examination and/or audit to have been illegally expended, or collected and not accounted for; also for the recovery of any public money or property disclosed to have been converted and misappropriated. Refusal or neglect to comply with the requirements of this section on the part of the attorney general or on the part of the prosecuting attorney shall be sufficient cause for his removal from office by the governor.

HISTORY: CL 1929, 197;—CL 1948, 14.143.

14.144 Investigation of books; bribe, gift or offer; penalty.

Sec. 4. Any person who shall give or offer to any examiner, accountant, clerk or other employe of the auditor general's department, any money, gift, emolument, or thing of value for the purpose of influencing the action of such examiner, or other person, in any matter relating to the examination of any public account authorized by this act, or for the purpose of preventing or delaying the examination of any such public account, or for the purpose of influencing the action of such examiner, or other person, in framing, changing, withholding or delaying any report of any examination of any such public account shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than 1,000 dollars nor less than 200 dollars, or he may be imprisoned in the Detroit house of correction for a period of not more than 6 months and not less than 30 days, or he may be punished by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1929, 198;—CL 1948, 14.144.

14.145 Investigation of books; bribe, solicitation or receipt, penalty.

Sec. 5. Any person appointed by the auditor general to make the examination herein provided, or any officer, clerk or other employe of the auditor general's department, who shall receive or solicit any money, gift, emolument, or anything of value for the purpose of being influenced in the matter of the examination of any public account authorized by this act, or for the purpose of being influenced to prevent or delay the examination of any such public account, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than 1,000 dollars and not less than 200 dollars, or he may be imprisoned in the Detroit house of correction for a period of not more than 6 months and not less than 30 days, or he may be punished by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1929, 199;—CL 1948, 14.145.

14.151 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Section imposed duty on attorney general to furnish blanks for uniform reports to prosecuting attorneys.

Act 270, 1947, p. 418; Imd. Eff. Jun. 27.

AN ACT to regulate and control the operation of foreign agencies acting within the state of Michigan; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

14.201 Foreign agencies; purpose of act.

Sec. 1. The purpose of this act is to safeguard the security and welfare of the people of the state of Michigan.

HISTORY: CL 1948, 14.201.

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14.202 Definition: foreign agency.

Sec. 2. For the purposes of this act, the term "foreign agency" means any individual, group, club, league, society, committee, association, political party, or combination of individuals, or individuals acting in concert therewith, whether incorporated or otherwise, subsidized by a foreign government or serving directly or indirectly the purposes, aims or objects of a foreign power or powers as follows:

(a) Any agency whose origin is directly or indirectly of foreign inspiration and whose object is the control or overthrow of the government;

(b) Any agency, political or otherwise, which acts in conjunction with a similar organization or organizations in other countries in the interest of a foreign power or powers, and which is or has been affiliated with international bodies originating with or dependent upon foreign governments or their subsidiaries, or under their jurisdiction, influence or direction, or whose objects, aims, or activities are identical with those of said foreign government or political parties dominating said government;

(c) Any agency which, being of the origin or inspiration set forth in subsection (b), pursues the objects of a foreign power or powers and has been or may be declared subversive by the congress of the United States of America, or the attorney general of the United States of America, or the attorney general of the state of Michigan: Provided, That as to the attorney general of Michigan such determination shall have been made after a hearing before the attorney general of the state of Michigan, at which such agency shall have the right to testify and present evidence in defense;

(d) Any publishing enterprise, radio station, and/or similar institution for influencing public opinion, whether incorporated or unincorporated, which has originated with the organizations as defined in subsections (a), (b), (c) and (e), or who have come under the control of organizations serving the objects of a foreign power;

(e) Labor unions, societies or corporations of all kinds who have originated and remain or come under the control of organizations or agencies serving the objects and purposes of a foreign power as described in subsections (a), (b), (c), and (d).

HISTORY: CL 1948, 14.202.

14.203 Registration; filing of registered statement, contents; oath.

Sec. 3. The agencies defined in subsections (a), (b), (c) and (d) of section 2 shall be individually and/or as a group required to register with the attorney general by filing with the attorney general on such forms and in such detail as the attorney general may by rules and regulations prescribe, a registered statement containing detailed information concerning their membership status, activities, income and expenditures and other particulars as may be requested by the attorney general. Every such statement required to be filed by this section shall be subscribed to under oath by all of the individuals and/or officers of the agency.

HISTORY: CL 1948, 14.203.

14.204 Publication or distribution of printed matter; legend required.

Sec. 4. All periodicals, books, pamphlets or other printed matter published or distributed within the state of Michigan by persons and/or organizations declared to be foreign agents or agencies within the meaning of this act shall at its masthead bear the legend: "published in compliance with the law of the state of Michigan governing the operation of foreign agencies".

HISTORY: CL 1948, 14.204.

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14.205 Statements and reports as public records; public inspection and examination.

Sec. 5. All statements and reports filed under the provisions of this act shall be public records and open to public inspection and examination at all reasonable hours and under such rules and regulations as the attorney general may prescribe.

HISTORY: CL 1948, 14.205.

14.206 Rules and regulations by attorney general.

Sec. 6. The attorney general is authorized at any time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this act, including the rules and regulations governing the statements and reports required to be filed by this act and to establish such other rules and regulations as are deemed necessary or pertinent to the purposes of this act, as he may from time to time require.

HISTORY: CL 1948, 14.206.

14.207 Violation of act; penalty.

Sec. 7. Any person or foreign agency, as defined in this act, who shall violate any of the provisions of this act shall be guilty of a felony, and upon conviction shall be punishable by a fine of not more than $5,000.00 or imprisonment in the state prison for not more than 5 years, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 14.207.

Act 101, 1961, p. 108; Eff. Sep. 8.

AN ACT to implement the state supervision and enforcement of charitable trusts; and to authorize the attorney general to establish and maintain a register of such charitable trusts, to protect the interests of the people of the state therein, to adopt and promulgate rules and regulations necessary to carry out the purposes of the act, and to take appropriate action to protect and carry out the purposes of the charitable trusts. Am. 1965, p. 694, Act 353, Eff. Mar. 31, 1966.

The People of the State of Michigan enact:

14.251 Charitable trusts; supervision; application of act.

Sec. 1. It is hereby declared to be the policy of the state that the people of the state are interested in the administration, operation and disposition of the assets of all charitable trusts in the state; and that the attorney general shall represent the people of the state in all courts of the state in respect to such charitable trusts. This act applies to all trusts and trustees holding property for charitable purposes over which the state or the attorney general has enforcement or supervisory powers.

HISTORY: New 1961, p. 108, Act 101, Eff. Sep. 8.

14.252 Definitions.

Sec. 2. (a) "Trustee" means any individual, group of individuals, association, foundation, trustee corporation, corporation, or other legal entity holding property for any charitable purpose.

(b) "Charitable trust" means the relationship where a trustee holds property for a charitable purpose.

HISTORY: New 1961, p. 108, Act 101, Eff. Sep. 8;—Am. 1965, p. 694, Act 353, Eff. Mar. 31, 1966.

14.253 Governmental and corporate exclusions, exceptions.

Sec. 3. (a) This act does not apply to the United States, any state, territory or possession of the United States, the district of Columbia, the commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, to an officer of a religious or-

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ganization who holds property for religious purposes, or to a charitable corporation organized and operated primarily as an educational institution, including amateur theater, band and orchestra corporations, a religious organization or hospital. This exemption does not apply to a governmental subdivision of this state, except state supported colleges or universities, as to property held for charitable purposes other than or more limited or specific than its general public or corporate purposes. This act shall not apply to any nonprofit charitable corporation organized under the laws of this state whose operating funds are derived, in whole or in part, from community funds or united foundation sources but this act shall apply to such a charitable corporation as to funds or properties received by it as trustee of an inter vivos trust of a continuing nature.

Registration and reporting requirements for irrevocable trusts.

(b) The registration and periodic reporting requirements of this act shall not apply to any trust in which the interests of the charitable remainder beneficiaries are remote. For the purpose of this act the interests of charitable remainder beneficiaries of a trust shall be considered remote if under the maximum exercise of discretion by the trustee in favor of the charitable remainder beneficiaries of such trusts, the value of their interests in the aggregate assets, computed actuarially at 5% or less of the value of the property subject to the trust, such determination shall be made at the time of the creation of an irrevocable trust, or at the time a revocable trust becomes irrevocable, or at the death of the testator in case of a testamentary trust. When a remote charitable interest vests in present possession or enjoyment, registration and periodic reports shall be required for the first time under this act.

Testamentary or inter vivos trusts, when not deemed charitable.

(c) Unless the governing instrument provides otherwise, a trust, whether testamentary or inter vivos, shall not be deemed a charitable trust only for the purposes of registration, accounting and notice, in the case where the individual or individuals are the sole income beneficiaries of the trust and a charitable organization or organizations (none of which or the selection of which are under the dominion or control of the grantor, testator, executor or trustee, or any members of his family) are remaindermen, until the remainder interest of at least one charitable organization vests in enjoyment. This provision shall not apply in the case of a disputed last will and testament.

HISTORY: New 1961, p. 108, Act 101, Eff. Sep. 8;—Am. 1965, p. 694, Act 353, Eff. Mar. 31, 1966;—Am. 1967, p. 628, Act 295, Eff. Nov. 2, 1967.

14.254 Attorney general; jurisdiction and control; parties represented.

Sec. 4. (a) The attorney general shall have jurisdiction and control and shall represent the people of the state and the uncertain or indefinite beneficiaries in all charitable trusts in this state, and may enforce such trusts by proper proceedings in the courts of this state.

Termination, liquidation or construction of charitable trust; powers and duties of attorney general.

(b) The attorney general is a necessary party to all court proceedings (1) to terminate a charitable trust or to liquidate or distribute its assets, or (2) to modify or depart from the objects or purposes of a charitable trust as the same are set forth in the instrument governing the trust, including any proceeding for the application of the doctrine of cy pres, or (3) to construe the provisions of an instrument with respect to a charitable trust. A judgment rendered in such proceedings without service of process and pleadings upon the attorney general, shall be voidable, unenforceable, and be set aside at the option of the attorney general upon his motion seeking such relief. The attorney general shall intervene in any proceedings affecting a charitable trust subject to this act, when requested to do so by the court having jurisdiction of the proceedings,

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and may intervene in any proceedings affecting a charitable trust when he determines that the public interest should be protected in such proceedings. With respect to such proceedings, no compromise, settlement agreement, contract or judgment agreed to by any or all parties having or claiming to have an interest in any charitable trust shall be valid unless the attorney general was made a party to such proceedings and joined in the compromise, settlement agreement, contract or judgment, or unless the attorney general, in writing, waives his right to participate therein. The attorney general is expressly authorized to enter into such compromise, settlement agreement, contract or judgment as in his opinion may be in the best interests of the people of the state and the uncertain or indefinite beneficiaries.

Probate of will devising to or creating charitable trust; notice to attorney general; procedure.

(c) Whenever a petition is filed for probate of a last will and testament containing any residuary bequest or devise to a trustee, as hereinbefore defined, or if such will creates or purports to create a charitable trust, the petitioner shall serve notice upon the attorney general, charitable trust division, of the pendency of the proceedings, and the probate judge shall make available and shall forward to the attorney general a copy of the petition for probate of will and a copy of the instruments filed for admission to probate. The notice and documents shall be served by certified mail, return receipt requested, not less than 14 days before the hearing date. The judge of probate shall not pass upon the petition in the absence of filing of proof of mailing. Upon entering his appearance, the attorney general shall become a necessary party in interest in the estate proceedings, either in the probate court or by way of appeal.

Register of trust and trustees.

(d) The attorney general shall establish and maintain a register of charitable trusts and trustees subject to this act and of the particular trust or other relationship under which they hold property for charitable purposes and shall conduct whatever investigation is necessary, and shall obtain from public records, all courts of record, court officers, taxing authorities, trustees, and other sources, whatever information, copies of instruments, reports and records needed for the establishment and maintenance of the register and files. The attorney general shall be authorized to require the necessary information and documents, necessary to discharge the requirements of this act, and to require true or certified copies thereof to be furnished him, and all public officials shall provide same, without payment of any fee or charge whatsoever.

HISTORY: New 1961, p. 108, Act 101, Eff. Sep. 8;—Am. 1965, p. 695, Act 353, Eff. Mar. 31, 1966.

14.255 Filing of trust instrument and inventory of assets; time.

Sec. 5. Every trustee subject to this act who has received property for charitable purposes shall register and file with the attorney general, within 2 months after receiving possession or control of such property, a copy of the instrument providing for his title, powers or duties, an inventory of the assets of the charitable trust. If any part of the assets, income or principal of a presently existing charitable trust is authorized or required to be applied to a charitable purpose at the time this act takes effect, the filing shall be made within 3 months thereafter. If an amendment to this act first creates a duty to file, then the trustee shall register and make such filing within 3 months after the effective date of the amendment.

HISTORY: New 1961, p. 109, Act 101, Eff. Sep. 8;—Am. 1965, p. 696, Act 353, Eff. Mar. 31, 1966.

14.256 Audit report; trustee's report; distribution of assets; hearing, notice to attorney general; approval.

Sec. 6. (a) Every trustee which solicits money from the public, directly or indirectly, shall within 6 months after the close of its fiscal year file a copy of its certified audit report of its fiscal year, which audit report shall contain a balance sheet, a statement

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of receipts and disbursements, and a list of assets including securities held, or in lieu thereof a sworn statement by the trustee by its duly authorized representative setting forth the above information. Except as otherwise provided, every other trustee subject to this act shall, in addition to filing copies of the instruments previously required, file with the attorney general periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the trustee, in accordance with rules and regulations of the attorney general. Whenever any trustee shall file any petition for disposition or distribution of the assets of the trust or render any account with any probate or circuit court of this state, the trustee shall mail to the attorney general by certified mail a true copy of such petition or account, together with notice of the date of hearing thereof, and file proof of such mailing thereof with the court. The notice of hearing and true copy of the account or petition shall be mailed not less than 16 days before the hearing date. The attorney general upon receipt thereof shall examine the petition or account and may indicate his approval or disapproval thereof to the court, and may appear in said court to contest any and all parts thereof, and the judge of said court shall not pass upon the petition or account in the absence of the proof of mailing.

Rules and regulations; reports, suspension.

(b) The attorney general shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify charitable trusts as to purpose, nature of assets, duration of the charitable trust, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required to the ends (1) that he shall receive reasonably current, periodic reports as to all charitable trusts which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts. The attorney general may suspend the filing of reports as to a particular charitable trust for a reasonable, specifically designated time upon written application of the trustee filed with the attorney general and after the attorney general has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

Trustee's account as a report.

(c) A copy of an account filed by the trustee in any court having jurisdiction of the charitable trust, if the account substantially complies with the rules and regulations of the attorney general, may be filed as a report required by this section.

First report for a charitable trust.

(d) The first report for a charitable trust, unless the filing thereof is suspended as herein provided, shall be filed not later than 1 year after any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a charitable trust previously established is authorized or required to be applied to a charitable purpose at the time this act takes effect, the first report, unless the filing thereof is suspended, shall be filed within 6 months after the effective date of the act. If any amendment to this act first creates a duty to file, then the first report, unless the filing thereof is suspended, shall be filed within 6 months after the effective date of the amendment.

HISTORY: New 1961, p. 109, Act 101, Eff. Sep. 8;—Am. 1962, p. 7, Act 6, Eff. Mar. 28, 1963;—Am. 1965, p. 696, Act 353, Eff. Mar. 31, 1966.

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14.257 Rules and regulations by attorney general.

Sec. 7. The attorney general may make additional rules and regulations necessary for the administration of this act.

HISTORY: New 1961, p. 110, Act 101, Eff. Sep. 8.

14.258 Investigation of transactions.

Sec. 8. The attorney general may investigate transactions and relationships of trustees subject to this act for the purpose of determining whether the property held for charitable purposes is properly administered. He may require any agent, trustee, fiduciary, beneficiary, institution, association or corporation, or other person to appear, at a named time and place, in the county designated by the attorney general, where the person resides or is found, to give information under oath and to produce books, memoranda, papers, documents of title and evidence of assets, liabilities, receipts or disbursements in the possession or control of the person ordered to appear.

HISTORY: New 1961, p. 110, Act 101, Eff. Sep. 8.

14.259 Order for appearance; enforcement.

Sec. 9. When the attorney general requires the attendance of any person, as provided in section 8, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least 14 days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena and, upon application of the attorney general, obedience to the order may be enforced by the probate or circuit court having jurisdiction of the charitable trust in the county where the trust may be in existence or administered or the person receiving such notice resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend or postpone all or any part of its provisions.

HISTORY: New 1961, p. 110, Act 101, Eff. Sep. 8.

14.260 Register, copies of instruments, reports, public inspection.

Sec. 10. Subject to reasonable rules and regulations adopted by the attorney general, the register, copies of instruments and the reports filed with the attorney general shall be opened to public inspection.

HISTORY: New 1961, p. 110, Act 101, Eff. Sep. 8.

14.261 Enforcement to ensure compliance with act; proper accounting; jurisdiction of courts.

Sec. 11. The attorney general may institute appropriate proceedings to secure compliance with this act and to secure the proper accounting for the assets and administration of any charitable trust. The powers and duties of the attorney general provided in this act are in addition to his existing powers and duties. Nothing in this act shall impair or restrict the jurisdiction of any court with respect to any of the matters covered by it.

HISTORY: New 1961, p. 110, Act 101, Eff. Sep. 8;—Am. 1965, p. 697, Act 353, Eff. Mar. 31, 1966.

14.262 Application of act irrespective of contents of instrument.

Sec. 12. This act shall apply regardless of any contrary provisions of any instrument.

HISTORY: New 1961, p. 110, Act 101, Eff. Sep. 8.

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14.263 Custodians of public records; copies of instruments.

Sec. 13. The custodian of the records of a court having jurisdiction of probate matters or of charitable trusts, and any custodian of records of any department, agency or political subdivision of this state shall furnish free of charge such copies of papers, records and files of his office relating to the subject of this act as the attorney general requires.

HISTORY: New 1961, p. 110, Act 101, Eff. Sep. 8;—Am. 1965, p. 697, Act 353, Eff. Mar. 31, 1966.

14.264 Applications for exemption from taxation; filing of list with attorney general.

Sec. 14. Every officer, agency, board or commission of this state or political subdivision of this state or agencies thereof receiving applications for exemption from taxation of any charitable trust shall annually file with the attorney general a list of all applications received during the year.

HISTORY: New 1961, p. 111, Act 101, Eff. Sep. 8;—Am. 1965, p. 697, Act 353, Eff. Mar. 31, 1966.

14.265 Purpose and construction of act.

Sec. 15. This act, in all of its provisions, in the interest of society and in conformity with public policy is intended to protect the rights and interest of the people of the state and the uncertain and indefinite beneficiaries of all charitable trusts, and shall be so construed as to effectuate its general purposes.

HISTORY: New 1961, p. 111, Act 101, Eff. Sep. 8;—Am. 1965, p. 697, Act 353, Eff. Mar. 31, 1966.

14.266 Short title.

Sec. 16. This act shall be known and may be cited as the "supervision of trustees for charitable purposes act".

HISTORY: New 1961, p. 111, Act 101, Eff. Sep. 8;—Am. 1965, p. 697, Act 353, Eff. Mar. 31, 1966.

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CHAPTER 15. PUBLIC OFFICERS AND EMPLOYEES

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15.330 Effective date.

Act 10, 1969, p. 14; Imd. Eff. May 7.

AN ACT to provide uniform bond coverage for officers and employees of state departments and agencies; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

15.1 Uniform bond coverage; state officers and employees; exceptions.

Sec. 1. Notwithstanding the provisions of any other law, officers and employees of all state departments and agencies that are required by statute or in the discretion of the director of the department covered, or otherwise to furnish bonds conditioned for their honesty or faithful discharge of their duties shall be covered by a blanket bond or bonds as a departmental group or as a state group by corporate surety companies as approved by the director of the department of administration. Treasurers and tax collectors by whatever title known may be covered by individual bonds.

HISTORY: New 1969, p. 14, Act 10, Imd. Eff. May 7.

15.2 Bonds; conditions, coverage; departmental problems.

Sec. 2. The director of the department of administration or his designated agent is authorized to determine, after consultation with the director of the department of commerce, the condition of each such bond and whether a single state bond for all state officers and employees or departmental bonds, shall best serve the state. In determining adequate coverage, the department of administration is authorized to obtain bond coverage with provisions relative to departmental problems of a unique nature, including loss deductible or coinsurance provisions.

HISTORY: New 1969, p. 14, Act 10, Imd. Eff. May 7.

15.3 Notice to all surety companies.

Sec. 3. In obtaining bond coverage under this act, the department of administration shall notify all surety companies authorized to do business in this state of the provisions of this act and shall contract for adequate coverage.

HISTORY: New 1969, p. 15, Act 10, Imd. Eff. May 7.

15.4 Time for completion; termination of other bonds; deposit of refunds.

Sec. 4. Within 1 year after the effective date of this act, the department of administration shall complete the bonding requirement as required by this act and shall negotiate for the termination of all honesty and faithful discharge of duty bonds otherwise in full force and effect under the provisions of any other law and secure all refunds provided by such terminations and deposit the refunds to the general fund of the state.

HISTORY: New 1969, p. 15, Act 10, Imd. Eff. May 7.

15.5 Statutes superseded.

Sec. 5. This act supersedes all statutes, or parts of statutes, relating to amounts, terms and conditions, execution, approval and filing of surety bonds required of officers and employees of state departments and agencies, which are inconsistent with this act.

HISTORY: New 1969, p. 15, Act 10, Imd. Eff. May 7.

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15.6 Repeal.

Sec. 6. Act No. 20 of the Public Acts of 1968, being section 15.111 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1969, p. 15, Act 10, Imd. Eff. May 7.

R.S. 1846, Ch. 12 (continued).

OATHS AND BONDS OF STATE OFFICERS.

15.36 Oath of office; official bond; time, filing.

Sec. 36. The state officers named in this chapter, the lieutenant governor, acting commissioner of internal improvements, deputy secretary of state, deputy auditor general, deputy treasurer, and secretary of the board of internal improvements, shall each, before entering on the execution of his office, and within 20 days after receiving official notice of his election or appointment, or within 20 days after the commencement of the term of service for which he was elected, or appointed, take and subscribe the oath [of] office prescribed in the twelfth article of the constitution of this state, and deposit the same with his bond, in case a bond be required of him by law, with the secretary of state, who shall file and preserve the same in his office.

HISTORY: CL 1857, 281;—CL 1871, 361;—How. 330;—CL 1897, 150;—CL 1915, 183;—CL 1929, 384;—CL 1948, 15.36.

Sections 36-39 were originally numbered sections 35-38, but corrected in the margin of the Revised Statutes to read sections 36-39.

OATH OF OFFICE: See Const. XVI, 2, for form now prescribed. The office of acting commissioner of internal improvements and secretary of that board are abolished, see Act 76 of 1847, being CL 1915, 170-172, repealed by Act 309 of 1929, being CL 1929, 121.

The first 35 sections of Ch. 12, R.S. 1846 are Compilers' §§ 10.2, 10.3, 11.4, 11.5, 12.7 to 12.15, 13.17 to 13.26, and 14.28 to 14.35.

BONDS: Required of the secretary of state, Compilers' § 15.51; deputy secretary of state, Compilers' § 15.51; state treasurer, Compilers' § 12.7; auditor general, Compilers' § 15.41.

15.37 Oath; administration.

Sec. 37. Such oath may be taken and subscribed before any justice of the supreme court, a judge of any court of record, the secretary of state, the attorney general, any mayor of a city, or the clerk of any court of record.

HISTORY: CL 1857, 282;—CL 1871, 362;—How. 331;—CL 1897, 151;—CL 1915, 184;—CL 1929, 385;—CL 1948, 15.37.

15.38 Oath or bond; deposit, notice; penalty for neglect.

Sec. 38. If either of said officers shall neglect to deposit his oath or bond, according to the provisions of section 35 [36] of this chapter, and shall neglect to give the notice specified in the next section, or if he shall enter upon the execution of his office before he shall have so deposited his said oath or bond, he shall in either case, forfeit and pay to [the people of], this state 150 dollars.

HISTORY: CL 1857, 283;—CL 1871, 363;—How. 332;—CL 1897, 152;—CL 1915, 185;—CL 1929, 386;—CL 1948, 15.38.

15.39 Notice of declination; effect.

Sec. 39. No penalty shall attach on account of any neglect to deposit such oath or bond as aforesaid, in case such officer, before entering upon the execution of his office, and within the time limited for filing such oath or bond, shall give notice in writing to the officer or officers having the power by law to order an election to fill such office, or to fill the same by appointment, or, in case of an appointment by the governor by and with the advice and consent of the senate, to the governor, stating therein that he declines accepting such office.

HISTORY: CL 1857, 284;—CL 1871, 364;—How. 333;—CL 1897, 153;—CL 1915, 186;—CL 1929, 387;—CL 1948, 15.39.

Act 200, 1879, p. 184; Eff. Aug. 30.

AN ACT requiring certain state officers to give bonds before entering upon their official duties.

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The People of the State of Michigan enact:

15.41 Auditor general, official bond; amount, sufficiency.

Sec. 1. That the auditor general and commissioner of the state land office, before entering upon the duties of their respective offices, shall give bond to the people of this state, in the sum of 25,000 dollars, with 3 or more sureties, to be approved by the secretary of state and the attorney general, which bonds shall be filed in the office of the secretary of state. The secretary of state, with the concurrence of the attorney general, whenever he deems the sureties on the bond of the auditor general or the commissioner of the state land office to be insufficient security for the said sum of 25,000 dollars may demand, and the auditor general or the commissioner of the state land office shall give additional bond with sureties, to be approved by the secretary of state and the attorney general.

HISTORY: How. 334;—CL 1897, 154;—CL 1915, 187;—CL 1929, 388;—CL 1948, 15.41.

COMMISSIONER OF STATE LAND OFFICE: Office abolished and certain powers and duties transferred to superintendent of public instruction, see Compilers' § 322.221.

BONDS: As to the cost of bonds furnished by state officers, see Act 311 of 1905, being Compilers' § 15.71.

Act 16, 1895, p. 96; Eff. Aug. 30.

AN ACT requiring the secretary of state and the deputy secretary of state and the private secretary and executive clerk of the governor to give bonds for the faithful discharge of their official duties.

The People of the State of Michigan enact:

15.51 Official bonds of certain state officers; amount, filing.

Sec. 1. That the secretary of state and deputy secretary of state of this state, and the private secretary and executive clerk of the governor of this state, shall be required within 20 days after this act shall take effect and their successors in office shall be required within 20 days after entering upon the duties of their respective offices, to give bonds to the people of the state of Michigan with 3 or more sureties to be approved by the auditor general and attorney general, conditioned for the faithful discharge of their official duties, and for the safe and lawful custody and disposition of the moneys and property of the state which may be intrusted to them or come within their control.

The bond of the secretary of state shall be in the sum of 25,000 dollars, that of the deputy secretary of state shall be in the sum of 20,000 dollars, and the bonds of the private secretary and the executive clerk of the governor shall be each in the sum of 5,000 dollars. The bonds of the secretary of state and deputy secretary of state shall be filed and kept in the office of the auditor general, and those of the private secretary and executive clerk shall be filed and kept in the office of the secretary of state.

HISTORY: CL 1897, 155;—CL 1915, 188;—CL 1929, 389;—CL 1948, 15.51.

Act 311, 1905, p. 485; Imd. Eff. Jun. 17.

AN ACT with respect to the furnishing of bonds by state officers, their deputies, and officers of state institutions; to provide for the payment of the cost of such bonds, and to prescribe the places of filing the same. Am. 1915, p. 12, Act 6, Eff. Aug. 24.

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The People of the State of Michigan enact:

15.71 Official bonds of certain state officers; cost.

Sec. 1. Whenever a bond is required by the laws of this state to be given by the auditor general, secretary of state, state treasurer, commissioner of the state land office, attorney general or superintendent of public instruction, or the deputy or deputies of said officers, or any other civil or military officer of the state, or any officer of any state institution, whether elected or appointed, who is charged with the duty of being the custodian of any state or institution funds, money or property, such state or institution officer may procure the required bond from any surety company authorized by the laws of this state to execute same, and the cost thereof, not exceeding 1/2 of 1 per cent per annum, shall be paid out of the treasury of the state of Michigan, upon the warrant of the proper officer after being first allowed by the board of state auditors.

HISTORY: Am. 1907, p. 181, Act 143, Imd. Eff. June 12;—Am. 1913, p. 122, Act 88, Eff. Aug. 14;—CL 1915, 189;—CL 1929, 390;—CL 1948, 15.71.

15.72 Official bonds; filing, safe keeping.

Sec. 2. The various bonds referred to in section 1 of this act shall be filed in the office of the secretary of state of the state of Michigan, any requirement in any other statute of the state to the contrary notwithstanding: Provided, however, That the bond required to be furnished by the secretary of state, his deputy or any employe connected with his office, required by law to file a bond shall be filed in the office of the auditor general. It is hereby made the duty of the secretary of state and the auditor general to receive and make adequate provision for the safe keeping of said bonds.

HISTORY: Add. 1915, p. 12, Act 6, Eff. Aug. 24;—CL 1915, 190;—CL 1929, 391;—CL 1948, 15.72.

15.81 Repealed. 1964, p. 573, Act 287, Eff. Aug. 28.

Section related to official bond of superintendent of public instruction.

Act 164, 1848, p. 218; Eff. May 31.

AN ACT relative to the filing of oaths of office, and bonds of civil officers, etc.

Be it enacted by the senate and house of representatives of the state of Michigan:

15.91 Official bonds; certificate of filing.

Sec. 1. That when any civil officer appointed by the governor, or senate, or by the governor with the advice and consent of the senate of this state, is required by law to give bond and to file the same with any other officer than the secretary of state, he shall procure the certificate of such officer that such bond has been duly filed with him, and file the same with the secretary of state.

HISTORY: CL 1857, 285;—CL 1871, 365;—How. 335;—CL 1897, 156;—CL 1915, 192;—CL 1929, 394;—CL 1948, 15.91.

15.92 Official bonds; place for filing.

Sec. 2. When any such officer is required by law to give bond for the faithful performance of the duties of his office, and no provision is made by law, for filing the same with any particular officer, such bond shall be filed with the secretary of state.

HISTORY: CL 1857, 286;—CL 1871, 366;—How. 336;—CL 1897, 157;—CL 1915, 193;—CL 1929, 395;—CL 1948, 15.92.

15.93 Official oaths and certificates or bonds; time for filing.

Sec. 3. Every such officer, except where otherwise directed by law, shall file his oath of office and certificate or bond aforesaid, as the case may be, within 60 days from the receiving of his commission or appointment; and in default thereof, such commission or appointment shall be null and void: Provided, That officers appointed

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in and for the counties of Mackinac, Chippewa, Schoolcraft, Houghton, Ontonagon and Marquette, shall file their oaths, certificates and bonds as herein provided, within 90 days from their appointment or commission.

HISTORY: CL 1857, 287;—CL 1871, 367;—How. 337;—CL 1897, 158;—CL 1915, 194;—CL 1929, 396;—CL 1948, 15.93.

Act 179, 1885, p. 244; Eff. Sep. 19.

AN ACT to provide that all sureties upon official bonds shall make justification under oath of their pecuniary responsibility.

The People of the State of Michigan enact:

15.101 Official bonds; justification of sureties prerequisite to approval.

Sec. 1. That hereafter no bond required by law to be signed by surety or sureties shall hereafter be received and accepted or approved by any officer or other person or board whose duty it is or may be to accept or approve of any such bond unless the surety or sureties signing such bond shall first have justified their pecuniary responsibility under their signature, in writing, endorsed on said bond or attached thereto. And before any such bond shall be received and approved or accepted, the justification of the sureties thereof shall, in the aggregate, equal the penal sum of the bond, and show that the sureties thereof are worth in unencumbered property not exempt from execution under the laws of this state the penal sum thereof, after payment of all just debts, claims, and liabilities.

HISTORY: How. 8234a;—CL 1897, 159;—CL 1915, 195;—CL 1929, 397;—CL 1948, 15.101.

15.102 Official bonds; oath of justification, penalty.

Sec. 2. Such oath of justification shall be administered by some officer authorized by law to administer oaths, and any person knowingly or willfully making any false statement of his pecuniary responsibility in such justification shall be guilty of perjury and liable, upon conviction thereof, to the penalty of perjury.

HISTORY: How. 8234b;—CL 1897, 160;—CL 1915, 196;—CL 1929, 398;—CL 1948, 15.102.

PERJURY: See Compilers' §§ 750.422-750.427.

15.103 Official bonds; acceptance without justification; penalty; liability.

Sec. 3. Any person or persons receiving and accepting or approving any such bond without such justification shall be guilty of a misdemeanor, and shall further be liable for all damages that may be sustained or incurred by any person by reason of such defective bond being accepted or approved.

HISTORY: How. 8234c;—CL 1897, 161;—CL 1915, 197;—CL 1929, 399;—CL 1948, 15.103.

MISDEMEANOR: Punishment, see Compilers' § 750.504.

15.111 Repealed. 1969, p. 15, Act 10, Imd. Eff. May 7.

Section related to group bonding of commerce department employees.

Act 22, 1951, p. 26; Imd. Eff. Apr. 5.

AN ACT to require employees and persons in the service of the state and its governmental agencies to take and subscribe to the constitutional oath of office.

The People of the State of Michigan enact:

15.151 Constitutional oath of office; employees and persons in service of state.

Sec. 1. All persons now employed, or who may be employed by the state of Michigan or any governmental agency thereof, and all other persons in the service of the

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state or any governmental agency, shall, as a condition of their employment, take and subscribe to the oath or affirmation required of members of the legislature and other public officers by section 2 of article 16 of the constitution of 1908 of the state of Michigan.

HISTORY: New 1951, p. 26, Act 22, Imd. Eff. Apr. 5.

15.161-15.172 Repealed. 1968, p. 558, Act 317, Eff. Sep. 1.

Sections prohibited conflicts of interest of state officers, legislators and employees.

Act 1, 1948 (2nd Ex. Ses.), p. 9; Eff. Jan. 1, 1949.

AN ACT to provide for the payment of compensation of the governor, secretary of state, state treasurer, auditor general and attorney general; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

15.201 Executive officers of state; salaries.

Sec. 1. The governor, secretary of state, state treasurer, auditor general and attorney general shall receive the following compensations, which shall be in full for all services performed and expenses incurred during term of office. The governor shall receive an annual compensation of $22,500.00. The secretary of state, state treasurer, auditor general and attorney general shall each receive an annual compensation of $12,500.00.

HISTORY: New 1948, 2nd Ex. Ses., p. 9, Act 1, Eff. Jan. 1, 1949.

STATE OFFICERS' COMPENSATION COMMISSION: Act 357, 1968, p. 692, Eff. Sept. 20, prescribed the powers and duties of the state officers' compensation commission. See Compiled Law § 15.211 et seq., particularly sections 15.216 and 15.217 relating to determination of salary and expense allowance of the governor.

15.202 Executive officers of state; compensation during December, 1948.

Sec. 2. With respect to the period of December 2, 1948 to and including December 31, 1948, the governor, secretary of state, state treasurer, auditor general and attorney general shall each be entitled to receive the respective compensations set forth in section 21 of article 6 of the state constitution prior to amendment ratified by the people at the November 1948 election.

HISTORY: New 1948, 2nd Ex. Ses., p. 9, Act 1, Imd. Eff. Dec. 9.

STATE OFFICERS' COMPENSATION COMMISSION: See note under § 15.201.

15.203 Repeal.

Sec. 3. Section 15 of chapter 12 of the Revised Statutes of 1846, being section 150 of the Compiled Laws of 1929, is hereby repealed.

HISTORY: New 1948, 2nd Ex. Ses., p. 9, Act 1, Eff. Jan. 1, 1949.

15.204 Effective date.

Sec. 4. The provisions of this act, with the exception of section 2, shall become effective on and after January 1, 1949.

HISTORY: New 1948, 2nd Ex. Ses., p. 9, Act 1, Eff. Jan. 1, 1949.

Act 357, 1968, p. 693; Eff. Sep. 20.

AN ACT to prescribe the powers, duties and functions of the state officers' compensation commission; and to prescribe the powers and duties of the legislature in relation to the commission.

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The People of the State of Michigan enact:

15.211 State officers' compensation commission; members; appointment; vacancies; qualifications.

Sec. 1. The state officers' compensation commission created by section 12, article 4 of the state constitution is assigned to the department of civil service for the purposes of administration, budgeting, procurement and related management functions. Prior to October 1, 1968, the governor shall appoint 3 members for terms of 4 years and 4 for terms of 2 years. Thereafter the members shall be appointed prior to October 1 of the year of appointment for a term of 4 years. Vacancies shall be filled by the governor for the remainder of the unexpired term. No member or employee of the legislative, judicial or executive branch of government shall be eligible to be a member of the commission.

HISTORY: New 1968, p. 693, Act 357, Eff. Sep. 20.

15.212 Definitions.

Sec. 2. As used in the constitution "each 2 years" means periods ending on December 31 of each even numbered year. As used in this act, "session days" means any calendar day on which the commission meets and a quorum is present.

HISTORY: New 1968, p. 693, Act 357, Eff. Sep. 20;—Am. 1969, p. 220, Act 125, Imd. Eff. Jul. 29.

15.213 Compensation commission; meetings, quorum, actions, officers, subcommittees.

Sec. 3. The commission shall meet for not more than 15 session days every even numbered year and may meet before August 1, 1969 and may reconsider and make a further determination of the mileage allowance of the members of the legislature who request of the commission a redetermination. Such determination shall be effective September 1, 1969. Four members of the commission constitute a quorum for conducting the business of the commission. The commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairman from among its members. The state personnel director shall act as the secretary to the commission. The commission may establish subcommittees.

HISTORY: New 1968, p. 693, Act 357, Eff. Sep. 20;—Am. 1969, p. 220, Act 125, Imd. Eff. Jul. 29.

15.214 Assistance from state agencies.

Sec. 4. The commission may call upon the services and personnel of any agency of the state for assistance.

HISTORY: New 1968, p. 693, Act 357, Eff. Sep. 20.

15.215 Compensation commission compensation, expenses.

Sec. 5. The members of the commission shall receive no compensation but shall be entitled to their actual and necessary expenses incurred in the performance of their duties to be paid from the appropriation made to the department of civil service.

HISTORY: New 1968, p. 693, Act 357, Eff. Sep. 20.

15.216 Determination of state officers' compensation and expenses; filing.

Sec. 6. The commission shall determine the salaries and expense allowance of the governor, lieutenant governor, the justices of the supreme court and the members of the legislature and file its determinations with the clerk of the house of representatives, the secretary of the senate and the director of the department of administration not later than December 1, of each even numbered year and shall furnish copies to the governor, the lieutenant governor, justices of the supreme court and members of the legislature.

HISTORY: New 1968, p. 693, Act 357, Eff. Sep. 20.

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15.217 Determinations; effective date; rejection by legislature.

Sec. 7. The determinations of the commission shall be effective January 1 of the year following their filing and shall be the compensation and expense allowances of the governor, lieutenant governor, justices of the supreme court and members of the legislature unless the legislature, by concurrent resolution adopted by a 2/3 vote of the members elected to and serving prior to February 1 of the year following the filing of the determinations, rejects either the entire determinations or specific determinations for specific positions. In case of rejection the existing salary and expense allowances shall prevail retroactive to January 1.

HISTORY: New 1968, p. 693, Act 357, Eff. Sep. 20.

15.218 Effective date.

Sec. 8. This act shall take effect September 20, 1968.

HISTORY: New 1968, p. 693, Act 357, Eff. Sep. 20.

Act 261, 1968, p. 450; Eff. Nov. 15.

AN ACT to require that meetings of the governing bodies of political subdivisions and of certain authorities and other agencies performing essential governmental functions shall be open to the public.

The People of the State of Michigan enact:

15.251 Public agency meetings; definitions.

Sec. 1. As used in this act:

(1) "Board" means the board of supervisors of any county, the council of any city or village, the board of trustees of any township, the board of education of any school district, the governing body of any state-supported or partially supported college or university, or the board, commission or other governing body of any state or municipal authority or department created by law which has for its purpose the performance of an essential governmental function.

(2) "Public meeting" means that part of any meeting of a board during which it votes upon any ordinance, resolution, motion or other official action proposed by or to the board dealing with the receipt, borrowing or disbursement of funds or the acquisition, use of [sic] disposal of services or of any supplies, materials, equipment or other property or the fixing of personal or property rights, privileges, immunities, duties or obligations of any person or group of persons. The term "public meeting" shall not mean any meeting, the publication of the facts concerning which would disclose the institution, progress or result of an investigation undertaken by a board in the performance of its official duties.

HISTORY: New 1968, p. 450, Act 261, Eff. Nov. 15.

15.252 Open meetings required.

Sec. 2. Every public meeting of a board shall be open to the public.

HISTORY: New 1968, p. 450, Act 261, Eff. Nov. 15.

15.253 Public meetings; notice.

Sec. 3. Every board shall hold all public meetings at specified times and places, of which public notice shall be given. Public notice of the schedule of regular meetings shall be given once for each calendar or fiscal year, and shall show the regular dates and times for meetings and the place at which meetings are held. Public notice of each special meeting and of each rescheduled regular or special meeting shall be given of the date, time and place of each meeting. Public notice shall be given by posting a copy of the notice prominently at the principal office of the body holding the meeting

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or at the public building in which the meeting is to be held, or by publishing the notice once in a newspaper of general circulation in the political subdivision where the meeting will be held, at least 3 days prior to the time of the first regularly scheduled meeting in the case of regular meetings, and at least 12 hours prior to the time of the meeting in the case of special or rescheduled meetings. The board holding any meeting shall supply, on request, copies of the public notice thereof to any newspaper of general circulation in the political subdivision in which the meeting will be held and to any radio station which regularly broadcasts into the political subdivision.

HISTORY: New 1968, p. 450, Act 261, Eff. Nov. 15.

Act 318, 1968, p. 559; Eff. Sep. 1.

AN ACT to implement the provisions of section 10 of article 4 of the constitution relating to substantial conflicts of interest on the part of members of the legislature and state officers in respect to contracts with the state and the political subdivisions thereof; to provide for penalties for the violation thereof; to repeal all acts and parts of acts in conflict with this act; and to validate certain contracts.

The People of the State of Michigan enact:

15.301 Conflict of interest; purpose.

Sec. 1. This statute is enacted for the purpose of implementing the provisions of section 10 of article 4 of the constitution. Therefore, this act shall be taken into consideration in determining the construction and effect to be given the constitutional section, insofar as the same is constitutionally possible.

HISTORY: New 1968, p. 559, Act 318, Eff. Sep. 1.

15.302 Direct or indirect interest in state contracts prohibited.

Sec. 2. No member of the legislature, herein referred to as a "legislator", nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.

HISTORY: New 1968, p. 559, Act 318, Eff. Sep. 1.

15.303 Definitions.

Sec. 3. As used in this act:

(a) The term "state officer" means only a person occupying one of the following offices established by the constitution: governor; lieutenant governor; secretary of state; state treasurer; attorney general; auditor general; superintendent of public instruction; member of the state board of education; regent of the university of Michigan; trustee of Michigan State University; governor of Wayne State University; member of a board of control of one of the other institutions of higher education named in section 4 of article 8 of the constitution or established by law as therein provided; president of each of the foregoing universities and institutions of higher learning; member of the state board for public community and junior colleges; member of the supreme court; member of the court of appeals; member of the state highway commission; director of the state highway commission; member of the liquor control commission; member of the board of state canvassers; member of the commission on legislative apportionment; member of the civil service commission; state personnel director; or member of the civil rights commission; together with his principal deputy who by law under specified circumstances, may exercise independently some or all of the sovereign powers of his principal whenever the deputy is actually exercising such powers.

(b) "Political subdivision" includes all public bodies corporate within but not in-

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cluding the state, including all agencies thereof or any non-incorporated body within the state of whatever nature, including all agencies thereof.

HISTORY: New 1968, p. 559, Act 318, Eff. Sep. 1.

15.304 Pecuniary interest; when no substantial conflict.

Sec. 4. The word "interested" as used in section 2 refers to a pecuniary interest. If there is a conflict of interest on the part of a legislator or state officer in respect to a contract with the state or a political subdivision thereof, in order to come within the prohibitions of this act, his personal interest must be of such substance as to induce action on his part in promoting the contract for his own personal benefit. In the following cases, there shall be deemed to be no conflict of interest which is substantial:

(a) In respect to a contract between the state or any political subdivision thereof and:

(i) a corporation in which a legislator or state officer is a stockholder owning 1% or less of the total stock outstanding in any class where such stock is not listed on a stock exchange or stock with a present total market value not in excess of $25,000.00 where such stock is listed on a stock exchange; or

(ii) a corporation in whose stock a trust owns 1% or less of the total stock outstanding in any class where such stock is not listed on a stock exchange or stock with a present total market value not in excess of $25,000.00 where such stock is listed on a stock exchange where a legislator or state officer is a beneficiary under such trust.

(b) In respect to a contract between the state or any political subdivision thereof and:

(i) a corporation in which a legislator or state officer is a stockholder owning more than 1% of the total stock outstanding in any class where such stock is not listed on a stock exchange or stock with a present total market value in excess of $25,000.00 where such stock is listed on a stock exchange or a director, officer or employee;

(ii) a firm, meaning a copartnership or other unincorporated association, in which a legislator or state officer is a partner, member or employee;

(iii) a corporation or firm from which an indebtedness is owed to a legislator or state officer; or

(iv) a trustee or trustees under a trust in which a legislator or state officer is a beneficiary or trustee; or a corporation in whose stock such trust funds are invested, if such investment includes more than 1% of the total stock outstanding in any class where such stock is not listed on a stock exchange or stock with a present total market value in excess of $25,000.00 where such stock is listed on a stock exchange; if the legislator or state officer does not solicit the contract, takes no part in the negotiations for or in the approval of the contract or any amendment thereto, and does not in any way represent either party in the transaction and if the contract is not with or authorized by the department or agency of the state or a political subdivision thereof with which the state officer is connected.

(c) In respect to a contract between the state and a political subdivision thereof or between such political subdivisions.

(d) In respect to a contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice therefor provided such notice does not bar, except as authorized by law, any qualified person, firm, corporation or trust from bidding. This subsection shall not apply to amendments or renegotiations of a contract nor to additional payments thereunder which were not authorized by the contract at the time of award; and

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(e) In respect to a contract for public utility services where the rates therefor are regulated by the state or federal government.

HISTORY: New 1968, p. 559, Act 318, Eff. Sep. 1.

15.305 Voidability of contracts; procedure; knowledge; limitation on actions; reimbursement; amicable settlement; evidences of indebtedness.

Sec. 5. (1) This act, following the evident intent of section 10 of article 4 of the constitution, is aimed to prevent legislators and state officers from engaging in certain activities under circumstances creating a substantial conflict of interest and is not intended to penalize innocent persons. Therefore, no contract shall be absolutely void by reason of this act or the constitutional provision which it implements. Contracts involving a prohibited conflict of interest under this act and said constitutional provision shall be voidable only by decree of a court of proper jurisdiction in an action by the state or a political subdivision which is a party thereto, as to any person, firm, corporation or trust that entered into said contract or took any assignment thereof, with actual knowledge of such prohibited conflict. In the case of a corporation, the actual knowledge must be that of a person or body finally approving the contract for the corporation. All actions to avoid any contract hereunder shall be brought within 1 year after discovery of circumstances suggesting the existence of a violation of the constitutional provision as implemented by this act. In order to meet the ends of justice any such decree shall provide for the reimbursement of any person, firm, corporation or trust for the reasonable value of all moneys, goods, materials, labor or services furnished under the contract, to the extent that the state or political subdivision has benefited thereby. This provision shall not prohibit the parties from arriving at an amicable settlement.

(2) Negotiable and nonnegotiable bonds, notes or evidences of indebtedness, whether heretofore or hereafter issued, in the hands of purchasers for value, shall not be void or voidable by reason of this act or of the constitutional provision which it implements or of any previous statute, charter or rule of law.

HISTORY: New 1968, p. 560, Act 318, Eff. Sep. 1.

15.306 Existing contracts; validity.

Sec. 6. If the state or any political subdivision thereof has, prior to the effective date of this act, entered into any contract under which moneys, goods, materials, labor or services, have been actually received by the state or the political subdivision, which was void or voidable under any act, charter or rule of law because of conflict of interest on the part of a legislator or state officer at the time of the execution thereof, such contract shall be fully enforceable notwithstanding such conflict of interest, by any party thereto other than such legislator or state officer.

HISTORY: New 1968, p. 561, Act 318, Eff. Sep. 1.

15.307 Legislative committee on conflict of interest; appointment, duties and powers.

Sec. 7. There is created a special committee of the legislature on conflict of interest (herein referred to as the committee) to consist of 3 members of the senate and 3 members of the house of representatives, at least 1 of whom from each house shall be a member of the minority party, to be appointed in the same manner as standing committees of the senate and the house. The committee shall have the following duties and powers:

(a) It shall establish, by majority vote, its rules and procedures;

(b) Its members shall serve without compensation, but shall be entitled to actual and necessary expenses while on the business of the committee;

(c) It may, upon the request of any member of the legislature, render advisory opinions to legislators as to whether under the facts and circumstances of a particular case

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a legislator is interested directly or indirectly in a contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest;

(d) It may insure that the identity of persons involved in any request for advisory opinions shall not be disclosed in the request, advisory opinion or otherwise.

Legislators, practices prohibited.

Any member of the legislature who is licensed as an attorney is prohibited from appearing in any nonadversary or nonministerial proceeding before any state department, office, board or commission of the executive branch of government.

Legislators, violations.

Any member of the legislature willfully violating the provisions of this act shall be subject to appropriate disciplinary action by the house of which he is a member.

HISTORY: New 1968, p. 561, Act 318, Eff. Sep. 1.

15.308 Conflicts of interest; state officers, violations.

Sec. 8. Any state officer willfully violating the provisions of this act shall be subject to appropriate disciplinary action by the governor if he is an administrative officer of the state or if he be a judicial officer of the state, then by the governor on a concurrent resolution adopted by 2/3 of the members elected to and serving in each house of the legislature.

HISTORY: New 1968, p. 561, Act 318, Eff. Sep. 1.

15.309 Conflicts of interest; controlling law.

Sec. 9. All acts and parts of acts in conflict herewith are hereby repealed, it being the intention hereof that the provisions of said section 10 of article 4 of the constitution as implemented by this act, shall constitute the sole law in respect to conflicts of interest involving legislators and state officers in contracts with the state or its political subdivisions.

HISTORY: New 1968, p. 561, Act 318, Eff. Sep. 1.

15.310 Effective date.

Section 10. This act shall take effect September 1, 1968.

HISTORY: New 1968, p. 562, Act 318, Eff. Sep. 1.

Act 317, 1968, p. 557; Eff. Sep. 1.

AN ACT relating to the conduct of public servants in respect to contracts with public entities; to provide penalties for the violation of this act; to repeal certain acts and parts of acts; and to validate certain contracts.

The People of the State of Michigan enact:

15.321 Public servants, contracts with public entities; definitions.

Sec. 1. As used in this act:

(a) "Public servant" includes all persons serving any public entity, except members of the legislature and state officers who are within the provisions of section 10 of article 4 of the state constitution as implemented by legislative act.

(b) "Public entity" means the state including all agencies thereof, any public body corporate within the state, including all agencies thereof, or any non-incorporated public body within the state of whatever nature, including all agencies thereof.

HISTORY: New 1968, p. 557, Act 317, Eff. Sep. 1.

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15.322 Public servants, contracts prohibited.

Sec. 2. (1) No public servant shall be a party, directly or indirectly, to any contract between himself and the public entity of which he is an officer or employee, except as provided in section 3.

(2) No public servant shall directly or indirectly solicit any contract between the public entity of which he is an officer or employee and (a) himself; (b) any firm (meaning a co-partnership or other unincorporated association) of which he is a partner, member or employee; (c) any private corporation in which he is a stockholder owning more than 1% of the total outstanding stock of any class where such stock is not listed on a stock exchange or stock with a present total market value in excess of $25,000.00 where such stock is listed on a stock exchange or of which he is a director, officer or employee; or (d) any trust of which he is a beneficiary or trustee; nor shall he take any part in the negotiations for such a contract or the renegotiation thereof or amendment thereto or in the approval thereof; nor shall he represent either party in the transaction; except as provided in section 3.

HISTORY: New 1968, p. 557, Act 317, Eff. Sep. 1.

15.323 Contracts of public servants; disclosure of interest; application of act.

Sec. 3. The provisions of section 2 hereof shall apply to all public servants who are paid for working more than an average of 25 hours per week for a public entity, but such provisions shall not apply to any other public servant: (1) if he shall promptly disclose his pecuniary interest in the contract to the official body which has power to approve the same, which disclosure shall be made a matter of record in its official proceedings; and (2) if the contract is approved by a vote of 2/3 of the full membership of such approving body without the vote of a member thereof, if any, making such disclosure.

HISTORY: New 1968, p. 557, Act 317, Eff. Sep. 1.

15.324 Public servants, contracts excepted.

Sec. 4. The prohibitions of section 2 of this act shall not apply to:

(a) Contracts between public entities;

(b) Contracts awarded to the lowest qualified bidder, other than a public servant, upon receipt of sealed bids pursuant to a published notice therefor provided such notice does not bar, except as authorized by law, any qualified person, firm, corporation or trust from bidding. This subsection shall not apply to amendments or renegotiations of a contract nor to additional payments thereunder which were not authorized by the contract at the time of award; and

(c) Contracts for public utility services where the rates therefor are regulated by the state or federal government.

HISTORY: New 1968, p. 557, Act 317, Eff. Sep. 1.

15.325 Public servants, voidability of contracts; procedure, knowledge, limitation, reimbursement, settlements, evidences of indebtedness.

Sec. 5. (1) This act is aimed to prevent public servants from engaging in certain activities and is not intended to penalize innocent persons. Therefore, no contract shall be absolutely void by reason of this act. Contracts involving prohibited activities on the part of public servants shall be voidable only by decree of a court of proper jurisdiction in an action by the public entity, which is a party thereto, as to any person, firm, corporation or trust that entered into the contract or took any assignment thereof, with actual knowledge of the prohibited activity. In the case of the corporation, the actual knowledge must be that of a person or body finally approving the contract for the corporation. All actions to avoid any contract hereunder shall be brought

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within 1 year after discovery of circumstances suggesting a violation of this act. In order to meet the ends of justice any such decree shall provide for the reimbursement of any person, firm, corporation or trust for the reasonable value of all moneys, goods, materials, labor or services furnished under the contract, to the extent that the public entity has benefited thereby. This provision shall not prohibit the parties from arriving at an amicable settlement.

(2) Negotiable and nonnegotiable bonds, notes or evidences of indebtedness, whether heretofore or hereafter issued, in the hands of purchasers for value, shall not be void or voidable by reason of this act or of any previous statute, charter or rule of law.

HISTORY: New 1968, p. 558, Act 317, Eff. Sep. 1.

15.326 Public servants, validity of existing contracts.

Sec. 6. If any public entity has, prior to the effective date of this act, entered into any contract under which moneys, goods, materials, labor or services have been actually received by the public entity, which was void or voidable under any act, charter or rule of law because of a conflict of interest on the part of a public servant at the time of the execution thereof, such contract shall be fully enforceable notwithstanding such conflict of interest, by any party thereto other than such public servant.

HISTORY: New 1968, p. 558, Act 317, Eff. Sep. 1.

15.327 Penalty for violation.

Sec. 7. Any person violating the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1968, p. 558, Act 317, Eff. Sep. 1.

15.328 Other laws superseded.

Sec. 8. This act shall supersede all local charter provisions, whether incorporated in legislative acts or local charters, which relate to the matter of conflict of interest. It is the intention that this act shall constitute the sole law in this state and shall supersede all other acts in respect to conflicts of interest relative to public contracts, involving public servants other than members of the legislature and state officers, including but not limited to subsection (3) of section 30 of Act No. 156 of the Public Acts of 1851, as amended, being section 46.30 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 558, Act 317, Eff. Sep. 1.

15.329 Repeal.

Sec. 9. The following acts and parts of acts are repealed:

Year of act	Public Act No.	Section numbers	Compiled Law sections (1948)
1895	3	6 of chapter 5	65.6
1895	215	16 of chapter 8	88.16
1931	328	122	750.122
1955	269	969	340.969
1966	317		15.161 to 15.172

HISTORY: New 1968, p. 558, Act 317, Eff. Sep. 1.

15.330 Effective date.

Sec. 10. This act shall take effect September 1, 1968.

HISTORY: New 1968, p. 559, Act 317, Eff. Sep. 1.

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CHAPTER 16. EXECUTIVE ORGANIZATION

EXECUTIVE REORGANIZATION
Act 125 of 1958

16.1-16.7 Repealed.

PERSONS TO SERVE IN PLACE OF STATE OFFICERS
Act 17 of 1964

16.51 Deputies for state officers; appointment, term.

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16.705 Continuation of services and functions.

16.1-16.7 Repealed. 1968, p. 363, Act 237, Imd. Eff. Jun. 26.

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Act 17, 1964, p. 21; Imd. Eff. Apr. 14.

AN ACT to provide for the appointment by state officers of persons to serve in their places on boards, commissions and agencies.

The People of the State of Michigan enact:

16.51 Deputies for state officers; appointment, term.

Sec. 1. Notwithstanding any other law to the contrary, a state executive or administrative officer, or the head of a department, commission, board or other state agency, may appoint in writing a deputy or other employee of his department to serve in his place as a member of any board, commission or agency of which he is made by law an ex officio member. When the initial executive reorganization is completed pursuant to section 2 of article 5 of the state constitution such appointment shall only be made by the head of the department. The appointment may be made for a specific meeting or meetings or a specific period of time or until revoked by the official making the appointment but such appointment shall terminate whenever the appointing official is no longer eligible to serve in such capacity.

HISTORY: New 1964, p. 21, Act 17, Imd. Eff. Apr. 14.

Act 380, 1965, p. 750; Imd. Eff. Jul. 23.

AN ACT to organize the executive and administrative agencies of state government; to establish principal departments and department heads; to define the powers and duties of the principal departments and their governing agents; to allocate executive and administrative powers, duties, functions, and services among the principal departments; to provide for a method for the gradual implementation of the provisions of this act and for the transfer of existing funds and appropriations of the principal departments herein created and established.

The People of the State of Michigan enact:

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CHAPTER 1.

General Provisions

16.101 Executive organization act of 1965; short title.

Sec. 1. This act shall be known and may be cited as the "Executive organization act of 1965."

HISTORY: New 1965, p. 750, Act 380, Imd. Eff. Jul. 23.
CITED IN OTHER SECTIONS: Sections 16.101 to 16.608 are cited in § 125.1204.

16.102 Definition: head of department.

Sec. 2. Whenever the term "head of the department" is used it shall mean the head of one of the principal departments created by this act.

HISTORY: New 1965, p. 750, Act 380, Imd. Eff. Jul. 23.

16.103 Types of transfers; continuation of agencies not enumerated.

Sec. 3. (a) Under this act, a type I transfer means the transferring intact of an existing department, board, commission or agency to a principal department established by this act. When any board, commission, or other agency is transferred to a principal department under a type I transfer, that board, commission or agency shall be administered under the supervision of that principal department. Any board, commission or other agency granted a type I transfer shall exercise its prescribed statutory powers, duties and functions of rule-making, licensing and registration including the prescription of rules, rates, regulations and standards, and adjudication independently of the head of the department. Under a type I transfer all budgeting, procurement and related management functions of any transferred board, agency or commission shall be performed under the direction and supervision of the head of the principal department.

(b) Under this act, a type II transfer means transferring of an existing department, board, commission or agency to a principal department established by this act. Any department, board, commission or agency assigned to a type II transfer under this act shall have all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, transferred to that principal department.

(c) Under this act, a type III transfer means the abolishing of an existing department, board, commission, or agency and all its statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, are transferred to that principal department as specified under this act.

(d) Any department, board, commission, or agency not enumerated within this act, but established by law within a department, board, commission or agency shall continue within the department, board, commission or agency within which it had previously been established, and shall continue to exercise all its powers, duties and functions within the principal department established by this act.

HISTORY: New 1965, p. 750, Act 380, Imd. Eff. Jul. 23.
CITED IN OTHER SECTIONS: The above section is cited in § 338.1454.

16.104 Listing of principal departments.

Sec. 4. Except as otherwise provided by this act, or the state constitution, all executive and administrative powers, duties and functions, excepting those of the legislature and the judiciary, previously vested by law in the several state departments, commissions, boards, officers, bureaus, divisions or other agencies are vested in the following principal departments:

(1) Department of State

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(2) Department of Attorney General
(3) Department of Treasury
(4) Department of Administration
(5) Department of State Police
(6) Department of Military Affairs
(7) Department of Agriculture
(8) Department of Civil Service
(9) Department of Commerce
(10) Department of Natural Resources
(11) Department of Corrections
(12) Department of Education
(13) Department of Licensing and Regulation
(14) Department of State Highways
(15) Department of Labor
(16) Department of Mental Health
(17) Department of Public Health
(18) Department of Social Services
(19) Department of Civil Rights

HISTORY: New 1965, p. 751, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 683, Act 353, Eff. Nov. 15.

16.105 Principal department with commission head; delegation of powers and duties.

Sec. 5. When a principal department is headed by a commission, it may delegate such duties, powers and authority to the director of the department as it deems necessary to fulfill the duties and obligations of the commission.

HISTORY: New 1965, p. 751, Act 380, Imd. Eff. Jul. 23.

16.106 Deputy department heads; powers and duties.

Sec. 6. Deputy department heads shall perform such duties and exercise such powers as the head of the principal department may prescribe. Except when the head of a department is a commission, deputy department heads shall act for, and exercise the powers of, the head of the principal department during his absence or disability.

HISTORY: New 1965, p. 751, Act 380, Imd. Eff. Jul. 23.

16.107 Internal organization of principal departments; executive allocation and reallocation of duties and functions; limitations.

Sec. 7. (a) Except as provided by law or within this act, the head of each principal department with the approval of the governor is authorized to establish the internal organization of his department and allocate and reallocate duties and functions to promote economic and efficient administration and operation of the department. No substantive function vested by law in any officer or agency within the principal department shall be removed from the jurisdiction of such officer or agency under the provisions of this section.

Transfer of type II or type III agencies; administration; rules and regulations.

(b) Except as provided by law or within this act, when any department, commission or board or other agency is transferred by a type II or type III transfer to a principal department under the provisions of this act, the functions of the department, commission or board or other agency shall be administered under the direction and supervision of the head of the principal department. When a department, commission, board or other agency is transferred by a type II or type III transfer to a principal department all prescribed statutory functions of rule making, licensing and registration in-

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cluding the prescription or [sic] rules, regulations, standards and adjudications shall be transferred to the head of the principal department into which the department, commission, board or agency has been incorporated.

HISTORY: New 1965, p. 751, Act 380, Imd. Eff. Jul. 23.

16.108 Compensation; heads of principal departments, directors, commissions, boards; exclusive employment.

Sec. 8. (a) Heads of principal departments, commissions or boards, principal executive officers of departments, commissions and boards shall receive compensation prescribed by law.

(b) Directors of departments, commissions, boards and directors of departments, boards and commissions transferred to a principal department shall not engage in any business, vocation or employment other than their office. Members of boards and commissions may so engage unless specifically prohibited by law.

HISTORY: New 1965, p. 752, Act 380, Imd. Eff. Jul. 23;—Am. 1965, p. 828, Act 407, Imd. Eff. Oct. 29.

16.109 Rules and regulations; promulgation.

Sec. 9. The head of each principal department, and those commissions, boards and agencies granted a type I transfer may promulgate such rules and regulations as may be necessary to carry out the functions now or hereafter vested in them in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 752, Act 380, Imd. Eff. Jul. 23.

16.110 Powers and duties of governor continued.

Sec. 10. All powers, duties and functions vested in the office of governor are continued, except as otherwise provided by this act.

HISTORY: New 1965, p. 752, Act 380, Imd. Eff. Jul. 23.

16.111 Special commissions.

Sec. 11. Special commissions created under Act No. 195 of the Public Acts of 1931, being sections 10.51 to 10.57 of the Compiled Laws of 1948, are units of the executive office of governor.

HISTORY: New 1965, p. 752, Act 380, Imd. Eff. Jul. 23.

16.112 Executive budget; transfer to executive office of governor; responsibilities of budget function; appointment of budget director.

Sec. 12. All powers, duties and functions of the department of administration, created under Act No. 51 of the First Extra Session of 1948, being sections 18.1 to 18.16 of the Compiled Laws of 1948, deemed necessary by the governor for effective planning and preparation of a comprehensive executive budget and for the execution, management and control of the enacted state budget are transferred to the executive office of the governor. Included in the executive budget function shall be continuing responsibility for analysis of all state agency programs and concurrently to evaluate administrative management and performance accountability in accordance with approved operational plans and public policy goals. All personnel of the budget division and all other personnel of the department of administration necessary to implement this section are transferred by a type II transfer to the executive office of the governor. The state budget director shall be appointed by the governor, serve at his pleasure and is exempt from the classified state civil service.

HISTORY: New 1965, p. 752, Act 380, Imd. Eff. Jul. 23.

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16.113 Department of economic expansion; transfer to executive office of governor, personnel.

Sec. 13. The powers, duties and functions of the department of economic expansion, created by Act No. 116 of the Public Acts of 1963, enumerated in section 125.1204 (h), (i) and (j) of the Compiled Laws of 1948, as amended, are transferred to the executive office of the governor. The personnel of the department of commerce necessary to implement this section are transferred to the executive office of the governor.

HISTORY: Add. 1967, Ex. Ses., p. 762, Act 11, Eff. Mar. 22, 1968.

CHAPTER 2.

Department of State

16.125 Department of state; creation.

Sec. 25. There is hereby created a department of state.

HISTORY: New 1965, p. 752, Act 380, Imd. Eff. Jul. 23.

16.126 Head of department of state.

Sec. 26. The head of the department of state is the secretary of state.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.127 Secretary of state; transfer of powers and duties.

Sec. 27. Except as otherwise provided in the constitution or in this act, all powers, duties and functions vested by law in the secretary of state are transferred by a type I transfer to the department of state.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.128 Board of state canvassers; transfer.

Sec. 28. The board of state canvassers created under article 2, section 7 of the state constitution, is transferred by a type I transfer to the department of state.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.129 License appeals board; transfer.

Sec. 29. The license appeals board created under sections 322 and 423 of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.322 and 257.323 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of state.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.130 Michigan historical commission; transfer.

Sec. 30. The Michigan historical commission created under Act No. 271 of the Public Acts of 1913, as amended, being sections 399.1 to 399.9 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of state.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.131 Highway reciprocity board; transfer.

Sec. 31. The highway reciprocity board created under Act No. 124 of the Public Acts of 1960, being sections 3.161 to 3.177 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of state.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.132 Commission on legislative apportionment; transfer.

Sec. 32. The commission on legislative apportionment created under article 4, section 6 of the state constitution, is transferred by a type I transfer to the department of state.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

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16.133 Notaries public; powers; duties and functions of governor; delegation to department.

Sec. 33. All or any portion of the powers, duties and functions of governor under section 107 of chapter 14 of the Revised Statutes of 1846, as amended, being section 55.107 of the Compiled Laws of 1948, relating to notaries public, may be delegated by executive order to the department of state.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.134 Executive orders; filing, submission to legislature, publication, modification and repeal.

Sec. 34. (1) Whenever the governor issues an executive order pertaining to organization of the executive branch, it shall be filed with the department of state in the same manner as required by law for the filing of public acts of this state. Copies of each such executive order shall be filed with and retained on record by the legislative council and a copy transmitted to each member of the legislature.

(2) Whenever the governor makes changes in the organization of the executive branch or in the assignment of functions among its units which require the force of law, such changes shall be set forth in executive orders and copies of the orders shall be submitted to the legislature as provided in section 2 of article 5 of the state constitution. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house within the constitutional time period, such executive orders shall become effective at the date designated by the governor.

(3) Executive orders as described in subsection (2) shall be dated, shall be given an identification number and published in the same manner as required by law for the publication of the public acts of the state.

(4) An executive order as described in subsection (2) may be modified or repealed by the legislature at any time by law.

HISTORY: Add. 1968, p. 363, Act 237, Imd. Eff. Jun. 26.

CHAPTER 3.

Department of the Attorney General

16.150 Department of attorney general; creation.

Sec. 50. There is hereby created a department of the attorney general.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.151 Head of department of attorney general.

Sec. 51. The head of the department of the attorney general is the attorney general.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.152 Attorney general; transfer of powers and duties to department.

Sec. 52. Except as otherwise provided in the constitution or by this act, all powers, duties and functions of the attorney general are transferred by a type I transfer to the department of the attorney general.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

16.153 Board of commissioners for promotion of uniformity of legislation; transfer.

Sec. 53. The board of commissioners for the promotion of uniformity of legislation in the United States created under Act No. 196 of the Public Acts of 1909, being sections 8.51 to 8.55 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of the attorney general.

HISTORY: New 1965, p. 753, Act 380, Imd. Eff. Jul. 23.

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16.154 Public solicitation for charitable purposes; transfer of powers, duties and functions to department of attorney general.

Sec. 54. All powers, duties and functions of the state social welfare commission and the state department of social welfare under the provisions of Act No. 68 of the Public Acts of 1915, as amended, being sections 400.301 to 400.304 of the Compiled Laws of 1948, relating to solicitation of the public for charitable purposes, are transferred by a type II transfer to the department of attorney general.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23.

CHAPTER 4.

Department of Treasury

16.175 Department of treasury; creation.

Sec. 75. There is hereby created a department of treasury.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23.

16.176 Head of department of treasury.

Sec. 76. The head of the department of treasury is the state treasurer.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23.

16.177 State treasurer; transfer of powers and duties to department.

Sec. 77. Except as otherwise provided in this act, all powers, duties and functions vested by law in the state treasurer are transferred by a type I transfer to the department of treasury.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23.

16.178 Board of escheats; transfer.

Sec. 78. The state board of escheats of the state of Michigan created under Act No. 329 of the Public Acts of 1947, as amended, being sections 567.11 to 567.75 of the Compiled Laws of 1948, is transferred by a type III transfer to the department of treasury.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23;—Am. 1965, p. 828, Act 407, Imd. Eff. Oct. 29.

16.179 Elected auditor general; transfer of powers, duties and functions relating to property taxation.

Sec. 79. All powers, duties and functions of the elected auditor general relating to property taxation created under Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948, are transferred by a type II transfer to the department of treasury.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23.

16.180 Elected auditor general; transfer of powers, duties and functions relating to uniform system of accounts.

Sec. 80. All powers, duties and functions of the elected auditor general relating to uniform system of accounts for county offices and examination thereof, created under Act No. 71 of the Public Acts of 1919, as amended, being sections 21.41 to 21.53 of the Compiled Laws of 1948, are transferred by a type II transfer to the department of treasury.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23.

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16.181 Elected auditor general; transfer of powers, duties and functions relating to plats.

Sec. 81. All powers, duties and functions of the elected auditor general created under the provisions of Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, relating to plats, are transferred by a type II transfer to the department of treasury.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23.

16.182 Elected auditor general; transfer of other powers, duties and functions; abolition of office.

Sec. 82. All powers, duties and functions of the auditor general elected under the Constitution of 1908, excepting those reassigned by sections 79, 80 and 81 of this act and those granted to the auditor general appointed under article 4, section 53 of the Constitution of 1963, are transferred by a type III transfer to the department of treasury, and the office of the elected auditor general is abolished.

HISTORY: New 1965, p. 754, Act 380, Imd. Eff. Jul. 23.

16.183 Department of revenue; transfer to department; department head.

Sec. 83. The department of revenue of the state of Michigan created under Act No. 122 of the Public Acts of 1941, as amended, being sections 205.1 to 205.17 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of treasury, and the head of the department of revenue shall be a member of the classified civil service.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23.

16.184 State tax commission; transfer.

Sec. 84. The state tax commission created under Act No. 360 of the Public Acts of 1927, as amended, being sections 209.101 to 209.107 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of treasury.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23.

16.185 State board of assessors; transfer.

Sec. 85. The state board of assessors created under section 1 of Act No. 282 of the Public Acts of 1905, as amended, being section 207.1 of the Compiled Laws of 1948, is transferred by a type II transfer to the state tax commission.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23.

16.186 State board of equalization, abolition; transfer of powers, duties and functions.

Sec. 86. The state board of equalization created under section 1 of Act No. 44 of the Public Acts of 1911, as amended, being section 209.1 of the Compiled Laws of 1948, is transferred by a type III transfer to the state tax commission, and the state board of equalization is abolished.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23.

16.187 State board of tax appeals; transfer.

Sec. 87. The state board of tax appeals created under section 8 of Act No. 122 of the Public Acts of 1941, being section 205.8 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of treasury.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23.

16.188 Municipal finance commission; transfer.

Sec. 88. The municipal finance commission created under section 1, chapter 2, of Act No. 202 of the Public Acts of 1943, as amended, being section 132.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of treasury.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23.

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16.189 Corporation franchise fee appeal board; transfer.

Sec. 89. The corporation franchise fee appeal board created under sections 9 and 10 of Act No. 85 of the Public Acts of 1921, as amended, being sections 450.309 and 450.310 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of treasury.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23.

16.190 Michigan corporation and securities commission; transfer of powers, duties and functions.

Sec. 90. Except as otherwise provided in sections 235, 236, 237, 328 and 330 of this act, all powers, duties and functions formerly vested in the Michigan corporation and securities commission are transferred to the department of treasury.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23;—Am. 1966, p. 585, Act 324, Imd. Eff. Jul. 19.

16.191 Retirement boards; transfer of investment functions department; reports; advisory committee; consultants.

Sec. 91. The investment functions of the boards named in subsections (a), (c), (d), (e) and (f) of section 106 are transferred to the department of treasury. Notwithstanding the provisions of any other act, the state treasurer shall invest, reinvest, assign, reassign, sell, transfer, and manage the investment funds and portfolios of the respective retirement systems and may use nominees to facilitate transfers. The state treasurer or his designee shall have the authority to execute all necessary instruments to effectuate said purposes. The state treasurer shall report all investment transactions to the department of administration promptly and to the respective retirement boards, and to the attorney general, not less than once every 3 months. There is hereby created an investment advisory committee composed of the director of the department of commerce, the director of the department of administration, or their duly authorized representatives, and 3 public members appointed for 3-year terms by the governor with the advice and consent of the senate. The public members shall serve without pay but shall be paid actual and necessary travel and other expenses in accordance with the provisions of the standard travel regulations issued by the department of administration. The investment advisory committee shall meet at least once each quarter. They shall review investments, goals and objectives of each of the retirement funds and may submit recommendations therefor. They may also, by a majority vote, direct the state treasurer to dispose of any holding or holdings, which in their judgment is not suitable for the fund involved, and may by unanimous vote direct the treasurer to make specific investments. Investment consultants shall be engaged by the state treasurer to advise with respect to investments in common stocks to the extent that funds for such expenditures are made available by the legislature. A report shall be made annually to the appropriating committees of the senate and house of representatives listing the consultants engaged and the compensation paid to each.

HISTORY: Add. 1968, p. 84, Act 45, Imd. Eff. May 23;—Am. 1969, p. 444, Act 232, Imd. Eff. Aug. 11.

CHAPTER 5.

Department of Administration

16.200 Department of administration; creation.

Sec. 100. There is hereby created the department of administration.

HISTORY: New 1965, p. 755, Act 380, Imd. Eff. Jul. 23.

16.201 Head of department of administration.

Sec. 101. The head of the department of administration is the director of the department of administration.

HISTORY: New 1965, p. 756, Act 380, Imd. Eff. Jul. 23.

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16.202 Department of administration; transfer.

Sec. 102. The state department of administration created under Act No. 51 of the Extra Session of 1948, as amended, being sections 18.1 to 18.16 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of administration.

HISTORY: New 1965, p. 756, Act 380, Imd. Eff. Jul. 23.

16.202a Controller; transfer of powers, duties and functions.

Sec. 102a. Except as otherwise provided in section 12 of this act all powers, duties and functions vested by law in the controller are transferred to the director of the department of administration.

HISTORY: Add. 1966, p. 585, Act 324, Imd. Eff. Jul. 19.

16.203 Director of department of administration; appointment.

Sec. 103. The director of the department of administration shall be appointed by the governor to serve at the pleasure of the governor.

HISTORY: New 1965, p. 756, Act 380, Imd. Eff. Jul. 23.

16.204 State building commission; transfer.

Sec. 104. The state building commision created under section 15 of Act No. 51 of the Public Acts of the First Extra Session of 1948, being section 18.15 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of administration.

HISTORY: New 1965, p. 756, Act 380, Imd. Eff. Jul. 23.

16.205 State building authority; transfer.

Sec. 105. The state building authority created under Act No. 183 of the Public Acts of 1964, being sections 830.411 to 830.424 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of administration.

HISTORY: New 1965, p. 756, Act 380, Imd. Eff. Jul. 23.

16.206 Retirement boards and agencies; transfer.

Sec. 106. The following boards and agencies are transferred by a type I transfer to the department of administration.

(a) The judges' retirement system board created under section 3 of Act No. 198 of the Public Acts of 1951, as amended, being section 38.803 of the Compiled Laws of 1948.

(b) The municipal employees' retirement system board created under section 3 of Act No. 135 of the Public Acts of 1945, being section 38.603 of the Compiled Laws of 1948.

(c) The probate judges' retirement system board created under section 3 of Act No. 165 of the Public Acts of 1954, being section 38.903 of the Compiled Laws of 1948.

(d) The public school employees' retirement system board created under section 3 of chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, being section 38.203 of the Compiled Laws of 1948.

(e) The state employees' retirement system board created under section 3 of Act No. 240 of the Public Acts of 1943, being section 38.3 of the Compiled Laws of 1948.

(f) The state police pension board of review created under section 5 of Act No. 251 of the Public Acts of 1935, as amended, being section 28.105 of the Compiled Laws of 1948.

(g) The Michigan veterans' trust fund board of trustees created under section 3 of Act No. 9 of the First Extra Session of 1946, as amended, being section 35.603 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 756, Act 380, Imd. Eff. Jul. 23.

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16.207 Veterans' organizations assigned to department of administration for budgetary purposes.

Sec. 107. For budgeting purposes only, the following veterans' organizations are assigned to the department of administration:

(a) Department of Michigan, the American Legion

(b) Department of Michigan, American Veterans of World War II and Korea

(c) Department of Michigan, Disabled American Veterans

(d) Department of Michigan, Marine Corps League, Inc.

(e) Department of Michigan, Military Order of the Purple Heart

(f) Department of Michigan, United Spanish War Veterans

(g) Department of Michigan, Veterans of Foreign Wars

(h) Department of Michigan, Veterans of World War I of the United States of America.

HISTORY: New 1965, p. 756, Act 380, Imd. Eff. Jul. 23.

16.208 State administrative board; transfer; membership; finality of action, subject to governor's disapproval.

Sec. 108. The state administrative board created under Act No. 2 of the Public Acts of 1921, as amended, being sections 17.1 to 17.11 of the Compiled Laws of 1948, is transferred as an organizational entity, together with all of its records, staff, property and funds, to the department of administration. The provisions of any other act notwithstanding the membership of the state administrative board shall be the governor, who shall serve as chairman, lieutenant governor, secretary of state, attorney general, superintendent of public instruction and state treasurer. The provisions of any other act notwithstanding, the action of the state administrative board shall become final within two calendar days unless the governor, in writing, disapproves such action. However any action affecting the powers and duties existing as of the effective date of this act of any elective official serving on the state administrative board shall not be subject to disapproval by the governor.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

16.209 Secretary of state; transfer of powers, duties and functions to department of administration, with records, property, personnel and funds.

Sec. 109. All powers, duties and functions of the secretary of state under Act No. 44 of the Public Acts of 1899, as amended, being sections 24.1 to 24.37 of the Compiled Laws of 1948, and under Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, except those pertaining to the filing of administrative rules, are transferred to the department of administration. The records, property, personnel, and unexpended balances of appropriations, allocations and other funds available or to be made available in connection with such transferred powers, duties and functions shall be transferred to the department of administration.

HISTORY: Add. 1968, p. 91, Act 50, Imd. Eff. May 28.

CHAPTER 6.

Department of Military Affairs

16.225 Department of military affairs; creation.

Sec. 125. There is hereby created a department of military affairs.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

16.226 Head of department of military affairs.

Sec. 126. The head of the department of military affairs shall be appointed by the governor and serve at the pleasure of the governor. Any other provision of the law to

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the contrary notwithstanding, the adjutant general of the state of Michigan may be appointed to and serve as the head of the department of military affairs.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23;—Am. 1965, p. 839, Act 407, Imd. Eff. Oct. 29.

16.227 Military establishment and state military board; transfer.

Sec. 127. The military establishment and the state military board created under Act No. 84 of the Public Acts of 1909, as amended, being sections 32.1 to 32.85 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of military affairs.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

16.228 Naval militia and state naval board; transfer.

Sec. 128. The naval militia and the state naval board created under Act No. 184 of the Public Acts of 1893, as amended, being sections 33.1 to 33.38 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of military affairs.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

CHAPTER 7.

Department of State Police

16.250 Department of state police; creation.

Sec. 150. There is hereby created a department of state police.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

16.251 Head of department of state police.

Sec. 151. The head of the department of state police is the director of the department of state police.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

16.252 Director of department of state police; appointment.

Sec. 152. The director of the department of state police shall be appointed by the governor and serve at the pleasure of the governor.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

16.253 State police and commissioner of state police; transfer of powers, duties and functions.

Sec. 153. All powers, duties and functions vested by law in the Michigan state police and the commissioner of the Michigan state police are transferred by a type III transfer to the department of state police.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

16.254 Civil defense advisory council; transfer.

Sec. 154. The civil defense advisory council created under section 3 of Act No. 154 of the Public Acts of 1953, as amended, being section 30.233 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of state police.

HISTORY: New 1965, p. 757, Act 380, Imd. Eff. Jul. 23.

16.255 State safety commission; transfer.

Sec. 155. The Michigan state safety commission created under Act No. 188 of the Public Acts of 1941, being sections 256.561 to 256.563 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of state police.

HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

16.256 Private detectives and detective agencies; transfer of licensing and regulatory functions.

Sec. 156. All powers, duties and functions of the secretary of state under the provisions of Act No. 383 of the Public Acts of 1927, as amended, being sections 338.801 to

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338.813 of the Compiled Laws of 1948, relating to private detectives and private detective agencies are transferred by a type II transfer to the department of state police.
HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

16.257 Law enforcement officers training council; transfer.

Sec. 157. The Michigan law enforcement officers training council created under Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of state police.
HISTORY: Add. 1965, p. 829, Act 407, Imd. Eff. Oct. 29.

16.258 State fire safety board; transfer.

Sec. 158. The state fire safety board created under Act No. 200 of the Public Acts of 1965, being sections 29.3a to 29.3c of the Compiled Laws of 1948, is transferred by a type I transfer to the department of state police.
HISTORY: Add. 1965, p. 829, Act 407, Imd. Eff. Oct. 29.

CHAPTER 8.

Department of Agriculture

16.275 Department of agriculture; creation.

Sec. 175. There is hereby created a department of agriculture.
HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

16.276 Head of department of agriculture.

Sec. 176. The head of the department of agriculture is the commission of agriculture.
HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

16.277 Department of agriculture; transfer.

Sec. 177. The department of agriculture, created under section 1 of Act No. 13 of the Public Acts of 1921, as amended, being section 285.1 of the Public Acts of 1948, is transferred by a type I transfer to the department of agriculture.
HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

16.278 Director of agriculture; transfer of powers, duties and functions to head of department.

Sec. 178. All powers, duties and functions now vested by law in the director of agriculture are transferred by a type I transfer to the head of the department of agriculture.
HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

16.279 Commission of agriculture; membership, terms, vacancies, quorum.

Sec. 179. The commission of agriculture shall consist of 5 members, not more than 3 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. The term of office of each member shall be 4 years, except that of members first appointed 2 shall be appointed for 1 year, 1 shall be appointed for 2 years, 1 shall be appointed for 3 years and 1 shall be appointed for 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The commission shall elect from its members such officers as it deems advisable. A majority of the commission members shall be required to constitute a quorum.
HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

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16.280 Director of department of agriculture; appointment by commission.

Sec. 180. The principal executive officer of the department is the director of the department of agriculture. The director shall be appointed by the commission and serve at its pleasure.

HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

16.281 Weather service; transfer.

Sec. 181. The Michigan weather service created under Act No. 246 of the Public Acts of 1895, as amended, being sections 295.1 to 295.4 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of agriculture.

HISTORY: New 1965, p. 758, Act 380, Imd. Eff. Jul. 23.

16.282 State soil conservation committee; transfer.

Sec. 182. The state soil conservation committee created under Act No. 297 of the Public Acts of 1937, as amended, being sections 282.1 to 282.16 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of agriculture.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23.

16.283 Commodity commissions and councils; transfer.

Sec. 183. The following commissions and councils are transferred by a type I transfer to the department of agriculture.

(a) The Michigan state apple commission created by Act No. 87 of the Public Acts of 1939, as amended, being sections 290.51 to 290.66 of the Compiled Laws of 1948.

(b) The Michigan cherry commission created by Act No. 228 of the Public Acts of 1947, as amended, being sections 290.501 to 290.514 of the Compiled Laws of 1948.

(c) The Michigan potato industry council created by Act No. 208 of the Public Acts of 1961, being sections 290.181 to 290.191 of the Compiled Laws of 1948.

(d) The Michigan bean commission created under Act No. 114 of the Public Acts of 1965, being sections 290.551 to 290.568 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23;—Am. 1965, p. 899, Act 407, Imd. Eff. Oct. 29.

16.284 Office of racing commissioner; transfer.

Sec. 184. The office of racing commissioner under the provisions of Act No. 27 of the Public Acts of 1959, as amended, being sections 431.31 to 431.56 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of agriculture.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23.

16.285 State fair authority; transfer.

Sec. 185. The Michigan state fair authority created by Act No. 224 of the Public Acts of 1962, being sections 291.21 to 291.37 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of agriculture.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23.

16.286 Upper Peninsula state fair board of managers; transfer.

Sec. 186. The board of managers of the Upper Peninsula state fair created by Act No. 89 of the Public Acts of 1927, as amended, being sections 285.141 and 285.142 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of agriculture.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23.

CHAPTER 9.

Department of Civil Service

16.300 Department of civil service; creation.

Sec. 200. There is hereby created a department of civil service.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23.

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16.301 Head of department of civil service.

Sec. 201. The head of the department of civil service is the civil service commission.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23.

16.302 Civil service commission; transfer of powers, duties and functions.

Sec. 202. All powers, duties and functions vested by the constitution or by law in the civil service commission are transferred by a type I transfer to the civil service commission.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23.

16.303 Civil service commission; membership, terms, vacancies, officers, quorum.

Sec. 203. The civil service commission shall consist of 4 members appointed by the governor, not more than 2 of whom shall be members of the same political party. The term of office of each member shall be 8 years, except that of members first appointed 1 each shall be appointed for terms of 2, 4, 6 and 8 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The commission shall elect from its members such officers as it deems advisable. A majority of the commission members shall be required to constitute a quorum.

HISTORY: New 1965, p. 759, Act 380, Imd. Eff. Jul. 23.

16.304 Executive officer of civil service commission.

Sec. 204. The principal executive officer of the commission is the state personnel director.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

CHAPTER 10.

Department of Commerce

16.325 Department of commerce; creation.

Sec. 225. There is hereby created a department of commerce.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

16.326 Head of department of commerce.

Sec. 226. The head of the department of commerce is the director of commerce.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

16.327 Repealed. 1966, p. 586, Act 324, Imd. Eff. Jul. 19.

Section related to transfer of duties and functions of Michigan corporation and securities division to department of commerce.

16.328 State banking department and office of commissioner; transfer.

Sec. 228. The state banking department and the office of commissioner of the state banking department created under section 3 of Act No. 341 of the Public Acts of 1937, being section 487.3 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of commerce.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

16.329 Department of insurance and office of commissioner; transfer.

Sec. 229. The department of insurance and the office of the commissioner of insurance created under sections 200 and 202 of Act No. 218 of the Public Acts of 1956, being sections 500.200 and 500.202 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of commerce.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

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16.330 State liquor control commission; transfer.

Sec. 230. The state liquor control commission created by section 5 of Act No. 8 of the Extra Session of 1933, as amended, being section 436.5 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of commerce.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

16.331 Public service commission; transfer.

Sec. 231. The Michigan public service commission created under section 1 of Act No. 3 of the Public Acts of 1939, as amended, being section 460.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of commerce.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

16.332 Department of economic expansion, transfer; exceptions.

Sec. 232. The department of economic expansion created under Act No. 116 of the Public Acts of 1963, being sections 125.1201 to 125.1208 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of commerce, except for those powers, duties and functions transferred to the executive office of the governor by section 13.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23;—Am. 1967, Ex. Ses., p. 762, Act 11, Eff. Mar. 22, 1968.

16.333 Department of aeronautics and Michigan aeronautics commission; transfer.

Sec. 233. The department of aeronautics created under section 26 of Act No. 327 of the Public Acts of 1945, being section 259.26 of the Compiled Laws of 1948, and the Michigan aeronautics commission established thereunder are transferred by a type I transfer to the department of commerce.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

16.334 Savings and loan associations; regulation of, transfer.

Sec. 234. All powers, duties and functions of the secretary of state under the provisions of Act No. 156 of the Public Acts of 1964, being sections 489.501 to 489.899 of the Compiled Laws of 1948, relating to savings and loan associations and savings associations, are transferred by a type II transfer to the department of commerce.

HISTORY: New 1965, p. 760, Act 380, Imd. Eff. Jul. 23.

16.335 Corporation and securities commission; transfer of powers, duties and functions assigned under securities act.

Sec. 235. All powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 265 of the Public Acts of 1964, as amended, being sections 451.501 to 451.818 of the Compiled Laws of 1948, are transferred to the department of commerce.

HISTORY: Add. 1966, p. 585, Act 324, Imd. Eff. Jul. 19.

16.336 Corporation and securities commission; transfer of powers, duties and functions assigned under condominiums act.

Sec. 236. All powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 229 of the Public Acts of 1963, as amended, being sections 559.1 to 559.30 of the Compiled Laws of 1948, are transferred to the department of commerce.

HISTORY: Add. 1966, p. 585, Act 324, Imd. Eff. Jul. 19.

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16.337 Corporation and securities commission; transfer of powers, duties and functions assigned under debt management act.

Sec. 237. All powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 135 of the Public Acts of 1961, as amended, being sections 451.451 to 451.468 of the Compiled Laws of 1948, are transferred to the department of commerce.

HISTORY: Add. 1966, p. 586, Act 324, Imd. Eff. Jul. 19.

16.338 Department of state highways; transfer of powers, duties and functions of weighmaster to public service commission of department.

Sec. 238. The powers, duties and functions of the department of state highways administered by the weighmaster section, relating to the administration and enforcement of the size, weight and load of vehicles provisions of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948, with the exception of sections 719a, 722f, 725 and 725a, are transferred to the public service commission of the department of commerce.

HISTORY: Add. 1968, p. 128, Act 77, Imd. Eff. Jun. 4.

16.339 Department and secretary of state; transfer of commercial vehicle regulatory powers, duties and functions to department.

Sec. 239. The powers, duties and functions of the secretary of state and the department of state relating to the regulation of commercial vehicles, other than titling and registration, under the provisions of Act No. 300 of the Public Acts of 1949, as amended, are transferred to the public service commission of the department of commerce.

HISTORY: Add. 1968, p. 129, Act 77, Imd. Eff. Jun. 4.

16.340 Effective date of sections 16.338 and 16.339; transfer of records, property, personnel.

Sec. 240. The powers, duties and functions transferred to the department of commerce in sections 238 and 239 of this act shall be transferred effective July 1, 1968. All records, property, personnel and appropriations used, held, employed, available or to be made available in connection with such powers, duties and functions shall be transferred to the department of commerce.

HISTORY: Add. 1968, p. 129, Act 77, Imd. Eff. Jun. 4.

16.341 Department of commerce; annual report.

Sec. 241. Annually, the department of commerce shall make a report to the governor and to the legislature covering the operation of the department for the fiscal year ending June 30. The report shall contain a summary of the department's activities during the fiscal year, a statement of all revenues and expenditures made by or in behalf of the department, such other information as it may deem necessary or useful and any additional information which may be requested by the governor. The report of the department of commerce shall include reports required by law of all bureaus, agencies and commissions within the department.

HISTORY: Add. 1968, p. 268, Act 176, Eff. Nov. 15.

CHAPTER 11.

Department of Conservation

16.350 Department of natural resources; creation.

Sec. 250. There is created a department of natural resources.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 683, Act 353, Eff. Nov. 15.

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16.351 Head of department of natural resources.

Sec. 251. The head of the department of natural resources is the commission of natural resources.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 683, Act 353, Eff. Nov. 15.

16.352 Department of conservation; transfer.

Sec. 252. The department of conservation, created under section 1 of Act No. 17 of the Public Acts of 1921, as amended, being section 299.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 683, Act 353, Eff. Nov. 15.

16.353 Director of conservation, transfer of powers, functions and duties.

Sec. 253. All powers, duties and functions now vested by law in the director of conservation are transferred by a type I transfer to the department of natural resources.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 683, Act 353, Eff. Nov. 15.

16.354 Commission of natural resources; membership, terms, officers, quorum.

Sec. 254. The commission of natural resources shall consist of 5 members, not more than 3 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. The term of office of each member shall be 4 years, except that of the members first appointed 2 shall be appointed for 1 year, 1 shall be appointed for 2 years, 1 shall be appointed for 3 years and 1 shall be appointed for 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The commission shall elect from its members such officers as it deems advisable. A majority of the commission members shall be required to constitute a quorum. The members of the commission of conservation serving on the effective date of this 1968 amendatory act shall continue to serve for the balance of their term.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 683, Act 353, Eff. Nov. 15.

16.355 Director of department; appointment.

Sec. 255. The principal executive officer of the department is the director of the department of natural resources. The director shall be appointed by the commission and serve at its pleasure.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 684, Act 353, Eff. Nov. 15.

16.356 Mackinac island state park commission; transfer.

Sec. 256. The Mackinac island state park commission created under section 2 of Act No. 355 of the Public Acts of 1927, as amended, being section 318.62 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 684, Act 353, Eff. Nov. 15.

16.357 Water resources commission; transfer.

Sec. 257. The water resources commission created under section 1 of Act No. 245 of the Public Acts of 1929, as amended, being section 323.1 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 684, Act 353, Eff. Nov. 15.

16.358 State waterways commission; transfer.

Sec. 258. The Michigan state waterways commission created under section 2 of Act No. 320 of the Public Acts of 1947, as amended, being section 281.502 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

HISTORY: New 1965, p. 761, Act 380, Imd. Eff. Jul. 23;—Am. 1965, p. 829, Act 407, Imd. Eff. Oct. 29;—Am. 1968, p. 684, Act 353, Eff. Nov. 15.

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16.359 Repealed. 1968, p. 685, Act 353, Eff. Nov. 15.

Section related to transfer of boating control committee to department of conservation.

16.360 Michigan tourist council; transfer.

Sec. 260. The Michigan tourist council created by Act No. 106 of the Public Acts of 1945, as amended, being sections 2.101 to 2.108 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of natural resources.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 684, Act 353, Eff. Nov. 15.

CHAPTER 12.

Department of Corrections

16.375 Department of corrections; creation.

Sec. 275. There is hereby created a department of corrections.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

16.376 Head of department of corrections.

Sec. 276. The head of the department of corrections is the commission of corrections.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

16.377 Department of corrections; transfer.

Sec. 277. The department of corrections created under section 1 of Act No. 232 of the Public Acts of 1953, being section 791.201 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of corrections.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

16.378 Commission of corrections; membership, terms, vacancies, officers, quorum.

Sec. 278. The commission of corrections shall consist of 5 members, not more than 3 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. The term of office of each member shall be 4 years, except that of members first appointed 2 shall be appointed for 1 year, 1 shall be appointed for 2 years, 1 shall be appointed for 3 years and 1 shall be appointed for 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The commission shall elect from its members such officers as it deems advisable. A majority of the commission members shall be required to constitute a quorum.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

16.379 Director of department; appointment.

Sec. 279. The principal executive officer of the department is the director of the department of corrections. The director shall be appointed by the commission and serve at its pleasure.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

CHAPTER 13.

Department of Education

16.400 Department of education; creation.

Sec. 300. There is hereby created a department of education.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

16.401 Head of department of education.

Sec. 301. The head of the department of education is the state board of education established by the state Constitution of 1963.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

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16.402 Board of education; transfer of powers, duties and functions to department.

Sec. 302. All powers, duties and functions vested by law in the board of education are transferred by a type I transfer to the department of education.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

16.403 Superintendent of public instruction; transfer powers, duties and functions to department.

Sec. 303. All powers, duties and functions now vested by law in the superintendent of public instruction are transferred by a type III transfer to the department of education.

HISTORY: New 1965, p. 762, Act 380, Imd. Eff. Jul. 23.

16.404 Board of education; membership, nomination and election, terms.

Sec. 304. The board of education shall consist of 8 members nominated by party convention and elected at large for 8-year terms.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23.

16.405 Superintendent of public instruction; appointment, term.

Sec. 305. The principal executive officer of the department of education is the superintendent of public instruction. The state board of education shall appoint the superintendent of public instruction whose term of office shall be determined by the board.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23.

16.406 State tenure commission; transfer.

Sec. 306. The state tenure commission created under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.81 to 38.191 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of education.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23.

16.407 State higher education facilities commission; transfer.

Sec. 307. The state higher education facilities commission created under Act No. 233 of the Public Acts of 1964, being sections 390.941 to 390.948 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of education.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23.

16.408 Michigan higher education assistance authority; transfer.

Sec. 308. The Michigan higher education assistance authority created by Act No. 77 of the Public Acts of 1960, as amended, being sections 390.951 to 390.960 of the Compiled Laws of 1948, is transferred by a type I transfer to the board of education.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23.

16.409 State board of libraries; transfer.

Sec. 309. The state board of libraries created under Act No. 106 of the Public Acts of 1937, being sections 397.1 to 397.8 of the Compiled Laws of 1948, is transferred by a type II transfer to the board of education.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23.

16.410 State board for public community and junior colleges; transfer.

Sec. 310. The state board for public community and junior colleges created under Act No. 193 of the Public Acts of 1964, being sections 390.911 to 390.916 of the Compiled Laws of 1948, is transferred by a type I transfer to the board of education.

HISTORY: Add. 1965, p. 829, Act 407, Imd. Eff. Oct. 29.

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CHAPTER 14.

Department of Licensing and Regulation

16.425 Department of licensing and regulation; creation.

Sec. 325. There is hereby created a department of licensing and regulation.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23.

16.426 Head of department of licensing and regulation.

Sec. 326. The head of the department of licensing and regulation is the director of licensing and regulation.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23.

16.427 Boards and agencies transferred to department of licensing and regulation.

Sec. 327. The following boards and agencies are transferred by a type I transfer to the department of licensing and regulation:

(a) The board of registration in medicine created under section 1 of Act No. 237 of the Public Acts of 1899, as amended, being section 338.51 of the Compiled Laws of 1948.

(b) The state board of osteopathic registration and examination created under section 1 of Act No. 162 of the Public Acts of 1903, as amended, being section 338.101 of the Compiled Laws of 1948.

(c) The board of chiropractic examiners created under section 1 of Act No. 145 of the Public Acts of 1933, as amended, being section 338.151 of the Compiled Laws of 1948.

(d) The Michigan state board of dentistry created under section 1 of Act No. 122 of the Public Acts of 1939, as amended, being section 338.201 of the Compiled Laws of 1948.

(e) The board of examiners in optometry created under section 1 of Act No. 71 of the Public Acts of 1909, as amended, being section 338.251 of the Compiled Laws of 1948.

(f) The board of registration in chiropody created under section 2a of Act No. 115 of the Public Acts of 1915, as amended, being section 338.302a of the Compiled Laws of 1948.

(g) The state board of pharmacy created under section 2 of Act No. 151 of the Public Acts of 1962, being section 338.1102 of the Compiled Laws of 1948.

(h) The Michigan state board of accountancy created under section 1 of Act No. 353 of the Public Acts of 1925, being section 338.501 of the Compiled Laws of 1948.

(i) The state board of registration for architects, professional engineers and land surveyors created under section 3 of Act No. 240 of the Public Acts of 1937, being section 338.553 of the Compiled Laws of 1948.

(j) The board of examiners of barbers created under section 2 of Act No. 382 of the Public Acts of 1927, as amended, being section 338.602 of the Compiled Laws of 1948.

(k) The state board of cosmetology created under section 5 of Act No. 176 of the Public Acts of 1931, being section 338.755 of the Compiled Laws of 1948.

(l) The state board of examiners in mortuary science created under section 1 of Act No. 268 of the Public Acts of 1949, being section 338.861 of the Compiled Laws of 1948.

(m) The plumbing board created under section 7 of Act No. 266 of the Public Acts of 1929, as amended, being section 338.907 of the Compiled Laws of 1948.

(n) The electrical administrative board created under section 2 of Act No. 217 of the Public Acts of 1956, as amended, being section 338.882 of the Compiled Laws of 1948.

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(o) The state board of registration for foresters created under section 3 of Act No. 78 of the Public Acts of 1955, being section 338.723 of the Compiled Laws of 1948.

(p) The Michigan state athletic board of control created by section 1 of Act No. 205 of the Public Acts of 1939, as amended, being section 431.101 of the Compiled Laws of 1948.

(q) The board of landscape architects created under section 4 of Act No. 126 of the Public Acts of 1963, being section 338.1204 of the Compiled Laws of 1948.

(r) The Michigan board of nursing created under section 1 of Act No. 319 of the Public Acts of 1909, as amended, being section 338.351 of the Compiled Laws of 1948.

(s) The advisory council to the board of nursing created under section 1 of Act No. 319 of the Public Acts of 1909, as amended, being section 338.351 of the Compiled Laws of 1948.

(t) The office of the state superintendent of private employment bureaus under Act No. 321 of the Public Acts of 1929, as amended, being sections 408.601 to 408.624 of the Compiled Laws of 1948.

(u) The board of examiners in basic sciences created under section 2 of Act No. 59 of the Public Acts of 1937, as amended, being section 338.2 of the Compiled Laws of 1948.

(v) The state board of veterinary examiners created by Act No. 152 of the Public Acts of 1956, as amended, being sections 287.451 to 287.474 of the Compiled Laws of 1948.

(w) The state board of physical therapy registration created under Act No. 164 of the Public Acts of 1965, being sections 338.321 to 338.337 of the Compiled Laws of 1948.

(x) The state board of horology created under Act No. 201 of the Public Acts of 1965, being sections 338.1401 to 338.1414 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 763, Act 380, Imd. Eff. Jul. 23;—Am. 1965, p. 829, Act 407, Imd. Eff. Oct. 29.

16.428 Michigan corporation and securities commission; transfer of powers, duties and functions relating to real estate brokers and salesmen.

Sec. 328. The powers, duties and functions of the Michigan corporation and securities commission under the provisions of Act No. 306 of the Public Acts of 1919, as amended, being sections 451.201 to 451.219 of the Compiled Laws of 1948, relating to real estate brokers and salesmen, are transferred by a type II transfer to the department of licensing and regulation.

HISTORY: New 1965, p. 764, Act 380, Imd. Eff. Jul. 23.

16.429 Superintendent of public instruction; transfer of powers, duties and functions relating to certification of psychologist.

Sec. 329. All powers, duties and functions of the superintendent of public instruction under the provisions of Act No. 257 of the Public Acts of 1959, as amended, being sections 338.1001 to 338.1019 of the Compiled Laws of 1948, relating to certification of psychologists, are transferred by a type II transfer to the department of licensing and regulation.

HISTORY: New 1965, p. 764, Act 380, Imd. Eff. Jul. 23.

16.430 Michigan corporation and securities commission; transfer of powers, duties and functions relating to residential building contractors.

Sec. 330. All powers, duties and functions of the Michigan corporations and securities commission under the provisions of Act No. 208 of the Public Acts of 1953, as amended, being sections 338.971 to 338.991 of the Compiled Laws of 1948, and Act No. 383 of the Public Acts of 1965, as amended, being sections 338.1501 to 338.1519

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of the Compiled Laws of 1948, relating to residential building contractors, are transferred by a type I transfer to the department of licensing and regulation.

HISTORY: New 1965, p. 764, Act 380, Imd. Eff. Jul. 23;—Am. 1966, p. 586, Act 324, Imd. Eff. Jul. 19.

16.431 State health commissioner; transfer of duties relating to sanitarians.

Sec. 331. All powers, duties and functions of the state health commissioner under Act No. 147 of the Public Acts of 1963, being sections 338.1301 to 338.1315 of the Compiled Laws of 1948, relating to sanitarians, are transferred by a type I transfer to the department of licensing and regulation.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23.

CHAPTER 15.

Department of State Highways

16.450 Department of state highways; creation.

Sec. 350. There is hereby created a department of state highways.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23.

16.451 Head of department of state highways.

Sec. 351. The head of the department of state highways is the state highway commission.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23.

16.452 State highway department; transfer of powers, duties and functions.

Sec. 352. All powers, duties and functions vested by law in the state highway department are transferred by a type I transfer to the department of state highways.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23.

16.453 Commissioner of state highways; transfer of powers, duties and functions to department.

Sec. 353. All powers, duties and functions now vested by law in the commissioner of state highways are transferred by a type I transfer to the department of state highways.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23.

16.454 State highway commission; membership, terms, vacancies, officers, quorum.

Sec. 354. The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, appointed by the governor by and with the advice and consent of the senate. The term of office of each member shall be 4 years, except that of members first appointed shall be appointed for specific terms of 1, 2, 3 and 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. A majority of the commission members shall be required to constitute a quorum.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23;—Am. 1967, p. 244, Act 182, Eff. Nov. 2, 1967.

16.455 Director of department; appointment.

Sec. 355. The principal executive officer of the department of state highways is the director of the department of state highways. The director shall be appointed by the commission and serve at its pleasure.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23.

16.456 State bridge commission; transfer and abolition.

Sec. 356. The state bridge commission created under Act No. 147 of the Public Acts of 1935, as amended, being sections 254.151 to 254.167 of the Compiled Laws of 1948,

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is transferred by a type III transfer to the department of state highways, and the state bridge commission is abolished.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23.

16.457 Mackinac bridge authority; transfer.

Sec. 357. The Mackinac bridge authority created under Act No. 21 of the Public Acts of the Extra Session of 1950, being sections 254.301 to 254.304 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of state highways.

HISTORY: New 1965, p. 765, Act 380, Imd. Eff. Jul. 23.

16.458 International bridge authority; transfer.

Sec. 358. The international bridge authority created under section 2 of Act No. 237 of the Public Acts of 1935, being section 254.202 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of state highways.

HISTORY: New 1965, p. 766, Act 380, Imd. Eff. Jul. 23.

CHAPTER 16.

Department of Labor

16.475 Department of labor; creation.

Sec. 375. There is hereby created a department of labor.

HISTORY: New 1965, p. 766, Act 380, Imd. Eff. Jul. 23.

16.476 Head of department of labor.

Sec. 376. The head of the department of labor is the director of labor.

HISTORY: New 1965, p. 766, Act 380, Imd. Eff. Jul. 23.

16.477 Commissioner of labor; transfer; abolition of office.

Sec. 377. The commissioner of labor and all his powers, duties and functions, created under section 21 of Act No. 357 of the Public Acts of 1947, being section 408.21 of the Compiled Laws of 1948, is transferred by a type III transfer to the department of labor, and the office of commissioner of labor is abolished.

HISTORY: New 1965, p. 766, Act 380, Imd. Eff. Jul. 23.

16.478 Workmen's compensation appeal board; transfer.

Sec. 378. The workmen's compensation appeal board created under section 9 of chapter 1a of Act No. 357 of the Public Acts of 1947, being section 408.9 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of labor, and notwithstanding any other provision of this act to the contrary, retains its authority to employ such personnel as provided by law.

HISTORY: New 1965, p. 766, Act 380, Imd. Eff. Jul. 23.

16.479 Employment security commission; transfer; autonomy.

Sec. 379. (a) The Michigan employment security commission created by section 3 of Act No. 1 of the Extra Session of 1936, as amended, being section 421.3 of the Compiled Laws of 1948, with all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement and management related functions are transferred to and shall be an autonomous entity in the department of labor.

Employment security advisory council; powers, duties; records, personnel; budgetary powers; transfer.

(b) The Michigan employment security advisory council created by section 3a of Act No. 1 of the Extra Session of 1936, as amended, being section 421.3a of the Compiled Laws of 1948, with all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations of other funds, including the functions of budgeting and procurement and management related

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functions are transferred to and shall be an autonomous entity in the department of labor.

Employment security appeal board; powers, duties; records, personnel; budgetary powers; transfer.

(c) The Michigan employment security appeal board created by section 35 of Act No. 1 of the Extra Session of 1936, as amended, being section 421.35 of the Compiled Laws of 1948, with all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement and management related functions are transferred to and shall be an autonomous entity in the department of labor.

HISTORY: New 1965, p. 766, Act 380, Imd. Eff. Jul. 23.

16.480 Wage deviation board; transfer.

Sec. 380. The wage deviation board created under Act No. 154 of the Public Acts of 1964, as amended, being sections 408.381 to 408.396 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of labor.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 684, Act 353, Eff. Nov. 15.

16.481 Labor mediation board; transfer.

Sec. 381. The labor mediation board created under section 3 of Act No. 176 of the Public Acts of 1939, being section 423.3 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of labor.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23.

16.482 Workmen's compensation department and director; transfer.

Sec. 382. The workmen's compensation department and the director of the workmen's compensation department created under chapter 1a of Act No. 357 of the Public Acts of 1947, being sections 408.1 to 408.12 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of labor.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23.

16.483 Construction safety commission; transfer.

Sec. 383. The state construction safety commission created under section 3 of Act No. 89 of the Public Acts of 1963, being section 408.713 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of labor.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23.

16.484 Office of inspector of coal mines; transfer and abolition.

Sec. 384. The office of inspector of coal mines created under section 2 of Act No. 177 of the Public Acts of 1913, as amended, being section 425.2 of the Compiled Laws of 1948, is transferred by a type III transfer to the department of labor, and the office of inspector of coal mines is abolished.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23.

16.485 Board of boiler rules; transfer.

Sec. 385. The board of boiler rules created under Act No. 290 of the Public Acts of 1965, as amended, being sections 408.751 to 408.776 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of labor.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23;—Am. 1968, p. 684, Act 353, Eff. Nov. 15.

16.486 Carnival-amusement safety board; transfer.

Sec. 386. The carnival-amusement safety board created under Act No. 225 of the Public Acts of 1966, being sections 408.651 to 408.667 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of labor.

HISTORY: Add. 1968, p. 684, Act 353, Eff. Nov. 15.

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16.487 Elevator safety board; transfer.

Sec. 387. The elevator safety board created under section 7 of Act No. 227 of the Public Acts of 1967, being section 408.807 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of labor.

HISTORY: Add. 1968, p. 684, Act 353, Eff. Nov. 15.

16.490 Commission on agricultural labor; membership, terms, compensation.

Sec. 390. There is established within the department a commission to be known as the commission on agricultural labor with powers of a type II transfer. The commission shall consist of 7 members, 4 of whom shall be chosen from growers and producers of agricultural products requiring a large number of seasonal workers, and 3 shall be chosen from the general public who are interested in the welfare of agricultural workers. The members of the commission shall be appointed by the governor by and with the advice and consent of the senate within 90 days after this section takes effect. Of the members first appointed, 2 chosen from growers and producers and 1 of the general public shall serve for a term of 3 years, 1 chosen from growers and producers and 1 of the general public shall serve for terms of 2 years each, 1 chosen from growers and producers and 1 of the general public shall serve for a term of 1 year, and their successors shall serve for terms of 3 years. Vacancies may be filled for the unexpired portion of the term in the same manner as appointments are made for a full term. The members shall serve without compensation other than for their necessary and proper expenses, which expenses are to be audited and paid from funds appropriated for this purpose.

HISTORY: Add. 1968, p. 684, Act 353, Eff. Nov. 15.

16.491 Commission; duties.

Sec. 391. The commission shall:

(a) Cooperate with all governmental agencies and committees concerned with agricultural labor including but not limited to migratory labor.

(b) Cooperate with private voluntary or community groups having as their prime concern problems involving agricultural labor.

(c) Conduct a continuing program for the people to acquaint them with the importance of agricultural labor and the sources from which it can be recruited to agriculture.

(d) Seek effective methods for the improvement of living, working and related problems affecting agricultural labor of all types.

(e) Formulate policies to effectuate the purposes of this act and make recommendations to agencies and officers of the state or local subdivisions of government on such policies and purposes.

HISTORY: Add. 1968, p. 685, Act 353, Eff. Nov. 15.

16.492 State agencies, cooperation with commission.

Sec. 392. State agencies and departments whose work is related to the problems which affect agricultural labor shall cooperate with the commission in the implementation of this act.

HISTORY: Add. 1968, p. 685, Act 353, Eff. Nov. 15.

16.493 Commission: chairman, duties; meetings; committees.

Sec. 393. A chairman shall be selected by the governor whose duty shall be that of calling meetings of the commission at least quarterly but not oftener than 12 times a year, and presiding over such meetings. The commission may authorize committees of such commission to meet during interims between meetings.

HISTORY: Add. 1968, p. 685, Act 353, Eff. Nov. 15.

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16.494 Commission: annual reports; recommendations.

Sec. 394. The commission shall render an annual report and also from time to time render recommendations to the governor, to the legislature and to the director of the department pertaining to agricultural labor, including recommendations for legislation.

HISTORY: Add 1968, p. 685, Act 353, Eff. Nov. 15.

CHAPTER 17.

Department of Mental Health

16.500 Department of mental health; creation.

Sec. 400. There is hereby created a department of mental health.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23.

16.501 Head of department.

Sec. 401. The head of the department of mental health is the director of mental health.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23.

16.502 Department of mental health; transfer of powers, duties and functions.

Sec. 402. All powers, duties and functions vested by law in the department of mental health are transferred by a type I transfer to the department of mental health.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23.

16.503 Director of department of mental health; transfer of powers, duties and functions.

Sec. 403. All powers, duties and functions now vested by law in the director of the department of mental health are transferred by a type I transfer to the department of mental health.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23.

16.504 Advisory council on mental health services; members, term; meetings; duties.

Sec. 404. The state advisory council in mental health services is created consisting of 8 members appointed by the governor with the advice and consent of the senate. The term for each member shall be for 4 years, with 2 members appointed each year. A member shall serve until his successor is appointed and qualified. The council shall hold not less than 4 meetings each year and shall review and make recommendations to the director of the department of mental health, the governor and the legislature on the programs and policies and operations for the state's mental health program. The council shall establish bylaws and procedures necessary to carry out their functions. Members of the council shall serve without compensation, but shall be entitled to necessary expenses incurred in connection with their official duties. The department of mental health shall provide such staff assistance as may be required by the council.

HISTORY: New 1965, p. 767, Act 380, Imd. Eff. Jul. 23;—Am. 1970, p. 462, Act 138, Imd. Eff. Aug. 1.

CHAPTER 18.

Department of Public Health

16.525 Department of public health; creation.

Sec. 425. There is hereby created a department of public health.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

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16.526 Head of department of public health.

Sec. 426. The head of the department of public health is the director of public health.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

16.527 Department of health and state health commissioner; transfer of powers, duties and functions.

Sec. 427. Except as otherwise provided in this act, all powers, duties and functions vested by law in the department of health and the state health commissioner are transferred by a type I transfer to the department of public health.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

16.528 State veterans' facility and board of managers; transfer.

Sec. 428. The state veterans' facility of Michigan and the board of managers, created under Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of public health.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

16.529 State council of health; transfer and abolition.

Sec. 429. The state council of health created under section 5 of Act No. 146 of the Public Acts of 1919, as amended, being section 325.5 of the Compiled Laws of 1948, is transferred by a type III transfer to the department of public health and the state council of health is abolished.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

16.530 Advisory hospital council; advisory council on tuberculosis sanitariums; advisory committee on use of animals; anatomy committee: transfer and abolition.

Sec. 430. The advisory hospital council, the advisory council on tuberculosis sanitariums, the advisory committee on the use of animals, and the anatomy committee are transferred by a type III transfer to the department of public health, and the advisory councils named in this section are abolished.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

16.531 State board of alcoholism; transfer.

Sec. 431. The state board of alcoholism created under section 47a of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being section 436.47a of the Compiled Laws of 1948, is transferred by a type II transfer to the department of public health.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

16.532 Michigan crippled children commission; transfer.

Sec. 432. The Michigan crippled children commission created under Act No. 158 of the Public Acts of 1937, as amended, being sections 722.201 to 722.244 of the Compiled Laws of 1948, is transferred by a type II transfer to the department of public health.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

CHAPTER 19.

Department of Social Services

16.550 Department of social services; creation.

Sec. 450. There is hereby created a department of social services.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

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16.551 Head of department of social services.

Sec. 451. The head of the department of social services is the director of social services.

HISTORY: New 1965, p. 768, Act 380, Imd. Eff. Jul. 23.

16.552 Department of social welfare; transfer of powers, duties and functions.

Sec. 452. All powers, duties and functions of the state department of social welfare created under Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.90 of the Compiled Laws of 1948, are transferred by a type I transfer to the department of social services.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

16.553 Michigan social welfare commission and office of director of social welfare; transfer and abolition.

Sec. 453. The Michigan social welfare commission and the office of director of the state department of social welfare created under sections 2 and 3 of Act No. 280 of the Public Acts of 1939, as amended, being sections 400.2 and 400.3 of the Compiled Laws of 1948, are transferred by a type III transfer to the department of social services and the Michigan social welfare commission and the office of the director of the state department of social welfare are abolished.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

16.554 Michigan commission on aging; transfer.

Sec. 454. The Michigan commission on aging created under section 1 of Act No. 11 of the Public Acts of 1960, being section 400.501 of the Compiled Laws of 1948, is transferred by a type I transfer to the department of social services.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

CHAPTER 20.

Department of Civil Rights

16.575 Department of civil rights; creation.

Sec. 475. There is hereby created a department of civil rights.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

16.576 Head of department of civil rights.

Sec. 476. The head of the department of civil rights is the civil rights commission.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

16.577 Civil rights commission; continuation of constitutional powers, duties and functions.

Sec. 477. All powers, duties and functions vested by law or the state constitution in the civil rights commission are continued.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

CHAPTER 21.

Transfer of Powers

16.600 Actions, suits or proceedings not to abate by reason of reorganization; maintenance by or against successors.

Sec. 500. No suit, action or other proceeding lawfully commenced by or against any department, board, commission, agency or any officer of the state, in his official ca-

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pacity or in relation to the discharge of his official duties, shall abate by the reason of the taking effect of any reorganization under the provisions of this act. The court may allow the suit, action or other proceeding to be maintained by or against the successor of any department, board, commission, agency or any officer affected by this act.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

16.601 Continuation of rules, regulations and orders adopted prior to act.

Sec. 501. All rules, regulations and orders of departments, boards, commissions or other agencies lawfully adopted prior to the effective date of any provision of this act shall continue to be effective until revised, amended or repealed.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

16.602 Criminal action not to abate.

Sec. 502. No criminal action commenced by the state shall abate by the taking effect of this act.

HISTORY: New 1965, p. 769, Act 380, Imd. Eff. Jul. 23.

16.603 Appointment of principal department head; access of appointee to records; continuation of powers and duties.

Sec. 503. The governor may appoint the head of any principal department not otherwise elected or appointed. Prior to assuming his duties as head of a department, the appointee shall have full access to all departments and agencies and records thereof relevant to his prospective duties for the purpose of formulating the internal organization of the department. During the period before the transfer of any powers, duties and functions in accordance with this act, existing departments and agencies shall continue to exercise their powers, duties and functions.

HISTORY: New 1965, p. 770, Act 380, Imd. Eff. Jul. 23;—Am. 1965, p. 830, Act 407, Imd. Eff. Oct. 29.

16.604 Establishment of effective date of each section by executive order; limitations as to constitutional offices; final effective date.

Sec. 504. The governor shall establish, from time to time, by executive order the effective date of each section of this act which provides for the transfer of any organizational entity or the powers, duties and functions of any organizational entity or officer as provided in this act, but in no case shall such transfer change the powers, duties and functions of any state official elected in a general election prior to January 1, 1964, before the expiration of his term of office in contravention of the state constitution. All provisions of this act shall become effective not later than December 31, 1966.

HISTORY: New 1965, p. 770, Act 380, Imd. Eff. Jul. 23.

16.605 Transfer of records, property, personnel and funds to principal department; return of appropriation to fund; federal aid; expiration of section.

Sec. 505. When duties, powers and functions have been transferred by this act to a principal department, so much of the records, property, personnel and unexpended balances of appropriations, allocations and other funds, used, held, employed, available, or to be made available in connection with such powers, duties and functions shall be transferred to the department as the governor shall determine to be required for the performance of the transferred functions. Appropriations not so required shall be returned to the fund from which appropriated. No transfer of funds is authorized under this section if such transfer would result in the termination of any federal aid program. This section remains effective until December 31, 1966.

HISTORY: New 1965, p. 770, Act 380, Imd. Eff. Jul. 23.

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16.606 Advisory councils; members, terms, vacancies; meetings; compensation.

Sec. 506. The governor may establish in the departments of commerce, labor, state police, military affairs, public health, licensing and regulation, and social services, advisory councils consisting of 8 members appointed by the governor with the advice and consent of the senate. The term of office of each member of an advisory council shall be 4 years, except that of the members first appointed, 2 each shall be appointed for terms of 1, 2, 3 and 4 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The advisory councils shall meet upon the call of the head of their respective departments and shall advise and consult with the head of the department. Members of advisory councils shall receive no compensation, but may be reimbursed for the actual and necessary expenses incurred in carrying out their advisory functions.

HISTORY: New 1965, p. 770, Act 380, Imd. Eff. Jul. 23;—Am. 1970, p. 462, Act 138, Imd. Eff. Aug. 1.

16.607 Executive designation of successor to state officer not continued under act when member of governmental agency.

Sec. 507. If under any law a state officer or state department official is designated as a member of a governmental agency and if such state officer or state departmental official is not continued under the provisions of this act, the governor by executive order may designate a state officer or state departmental official to succeed to the membership.

HISTORY: New 1965, p. 770, Act 380, Imd. Eff. Jul. 23.

16.608 Executive appointment of single executive head of principal department.

Sec. 508. When a single executive is the head of a principal department, unless elected as provided in the constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

HISTORY: New 1965, p. 771, Act 380, Imd. Eff. Jul. 23.

Act 240, 1970, p. 653; Imd. Eff. Dec. 30.

AN ACT to transfer the functions of the commodities surplus food distribution section from the department of social services to the department of education; to provide for the transfer of staff, records, files and other property; to provide that hearings shall not be abated; to transfer appropriations and other funds; and to prescribe certain powers and duties of the department of social services and the department of education.

The People of the State of Michigan enact:

16.701 Commodities surplus food distribution; transfer to education department.

Sec. 1. The powers and duties now vested by law in the department of social services with reference to the commodities surplus food distribution section are transferred to the department of education. The commodities food surplus distribution section within the department of social services is abolished and the department of education is vested with full authority and shall exercise the powers and perform the duties with reference to the commodities surplus food distribution section as heretofore vested in and required to be performed by the department of social services.

HISTORY: New 1970, p. 654, Act 240, Imd. Eff. Dec. 30.

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16.702 Staff, records, files and property.

Sec. 2. The staff, records, files and other property including property held in trust belonging to the commodities surplus food distribution section within the department of social services are transferred to the department of education and are continued as part of the staff, records, files and property of the department of education.

HISTORY: New 1970, p. 654, Act 240, Imd. Eff. Dec. 30.

16.703 Hearings, orders, rules.

Sec. 3. The hearings and proceedings of whatever nature now pending before the department of social services with respect to the commodities surplus food distribution section are not abated, but are transferred to the state department of education without notice to interested parties and shall be conducted in the same manner and determined in accordance with the provisions of law concerning the hearings and proceedings. The orders and rules of the commodities surplus food distribution section shall continue in effect until amended or rescinded by the department of education.

HISTORY: New 1970, p. 654, Act 240, Imd. Eff. Dec. 30.

16.704 Appropriations.

Sec. 4. All appropriations and all other funds necessary to carry out the duties, functions and responsibilities of the commodities surplus food distribution section are transferred to the state department of education.

HISTORY: New 1970, p. 654, Act 240, Imd. Eff. Dec. 30.

16.705 Continuation of services and functions.

Sec. 5. The department of social services and the state department of education shall make all arrangements as are necessary to provide for the uninterrupted conduct of the services and functions of government as prescribed by this act.

HISTORY: New 1970, p. 654, Act 240, Imd. Eff. Dec. 30.

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CHAPTER 17. STATE ADMINISTRATIVE BOARD

STATE ADMINISTRATIVE BOARD

Act 2 of 1921

17.1 State administrative board: membership, powers and duties.
17.2 Administrative board: powers, quorum, majority vote, governor's veto, overruling, compensation, expenses.
17.3 Administrative board: supervisory control over administrative departments; limitations as to appropriations; duties of administrative officials.
17.5 Repealed.
17.6 Administrative board: transfer and appropriation of funds prohibited; supervision of state construction; state accounting assigned to auditor general.
17.7, 17.8 Repealed.
17.10 Repealed.
17.11 Lieutenant governor, compensation as member of board.

STATE PURCHASING

Act 282 of 1919

17.21 State purchasing: application of act and institutions excepted.
17.22, 17.23 Repealed.
17.26 Repealed.
17.28 Purchasing agent to contract for supplies: estimates; preference for state products.
17.29-17.36 Repealed.
17.38 Repealed.

COST-PLUS CONTRACTS

Act 35 of 1921

17.41 Cost-plus contracts unlawful; exception.
17.42 Cost-plus contracts void.

MICHIGAN MINED COAL

Act 27 of 1935

17.51-17.57 Repealed.

SEWAGE, LIGHT, WATER OR OTHER FACILITIES

Act 98 of 1929

17.71 Contract with municipality to furnish public improvements to state institution.
17.72 Contract with municipality, sharing cost of construction of facility; payment.
17.73 Municipality permitted entry on state lands for construction of public improvement.
17.74 Contract with municipality for sewage disposal, without amendment to charter.
17.75 Construction of act.
17.76 Contract regarding lands controlled by board of regents or state board of agriculture; approval.

LOANS TO ROTARY AND REVOLVING FUNDS

Act 267 of 1931

17.81-17.84 Repealed.

INJURY CLAIMS OF NATIONAL GUARDSMEN

Act 93 of 1929

17.91, 17.92 Repealed.

INJURIES TO DRAFTED PERSONS

Act 128 of 1931

17.101 Drafted persons; definition, claims for compensation by state for injuries.
17.102 Drafted persons; payment of claims.
17.103 Appropriations from general fund for payment of claims.

OATHS TO WITNESSES

Act 231 of 1935

17.121 State officers and assistants authorized to administer oaths and examine witnesses in conduct of investigation.
17.122 Oaths administered by state officers and assistants in conduct of investigation. penalty for perjury.

INJURY CLAIMS OF STATE EMPLOYES

Act 133 of 1927

17.131 Repealed.

GOVERNMENT SURPLUS PROPERTY

Act 190 of 1945

17.151-17.155 Repealed.

STATE OFFICE BUILDING COMMISSION

Act 263 of 1945

17.201-17.206 Repealed.

STATE OFFICE BUILDING SITE

Act 28 of 1944 (1st Ex. Ses.)

17.221 Lands for state office building, authority to acquire.
17.222 Expenditures for state office building site authorized within legislative appropriation.

LEASE OF LANDS

Act 315 of 1947

17.251 Lease of state lands to public building corporation, subject to legislative approval.

LEASE OF LAND, DETROIT

Act 9 of 1947

17.301 Boulevard building in Detroit: acquisition, appropriation, expenditure, unexpended balance.
17.302 Boulevard building: management, rental terms and rates, and withdrawal of exceptions.

INVENTIONS AND DISCOVERIES PATENTED OR OWNED BY STATE

Act 2 of 1954 (Ex. Ses.)

17.401 Contracts relative to state property rights in inventions, discoveries, and patents thereon; provisions of such contracts; liability of state.
17.402 Contracts relating to inventions, discoveries and patents; approval of attorney general.
17.403 Contracts relating to inventions, discoveries and patents; disposition of receipts.

STATE INDEBTEDNESS

Act 266 of 1967

17.451 State borrowing and issuance of notes of state in anticipation of revenues permitted.
17.452 Limitations on indebtedness and time for repayment.

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17.453 Issuance of notes: form, interest, execution and sale.
17.454 Use of proceeds of loan restricted.

HEATING CONTRACTS
Act 112 of 1956
17.501 Fairmount hospital, contract for heating by state institution; disposition of revenues.

Act 2, 1921, p. 5; Imd. Eff. Feb. 23.

AN ACT to promote the efficiency of the government of the state, to create a state administrative board, to define the powers and duties thereof, to provide for the transfer to said board of powers and duties now vested by law in other boards, commissions, departments and officers of the state, and for the abolishing of certain of the boards, commissions, departments and offices, whose powers and duties are hereby transferred.

The People of the State of Michigan enact:

17.1 State administrative board: membership, powers and duties.

Sec. 1. There is hereby created a board to be known and designated as the state administrative board of the state of Michigan. Said board shall be composed of the governor, who shall act as chairman, the lieutenant-governor, the secretary of state, the state treasurer, the auditor general, the attorney general, the state highway commissioner and the superintendent of public instruction, and shall possess the powers and perform the duties hereinafter imposed.

HISTORY: CL 1929, 201;—Am. 1939, 687, Act 296, Eff. Sept. 29;—CL 1948, 17.1.

NOTE: Members of the state administrative board, with the governor as chairman, are members of the emergency state military board (when state military board outside jurisdiction of state), Sec. 7 of Act 84 of 1909, as amended by Act 65 of 1943, being Compilers' § 32.7.

Members of the state administrative board are members of the state office building commission, Sec. 2 of Act 263 of 1945, being Compilers' § 17.202.

CITED IN OTHER SECTIONS: Sections 17.1 to 17.11 are cited in §§ 16.208 and 18.4.

17.2 Administrative board: powers, quorum, majority vote, governor's veto, overruling, compensation, expenses.

Sec. 2. The board shall have power to adopt rules and regulations governing its procedure, to provide for the calling and holding of regular and special meetings, and for the general conduct of its business and affairs. Four members shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. Any action of the board shall require a concurring vote of a majority of the board, and shall be final, subject to the governor's veto, unless reconsidered or rescinded at a subsequent meeting thereof at which there shall be present as many members as were present when such vote was taken. The governor may veto any action of the board at any time within 10 days after its passage. By a concurring vote of 5 members of the board, taken within 10 days after the exercise of a veto, the veto of the governor may be overruled. The board shall also direct the manner in which orders made by it shall be served, and it may also employ and fix the compensation of such agents and assistants as may be necessary to carry out any of the duties imposed by this act. The compensation of all employees of the board, whether employed under this section or under any other section of the act, shall be paid from the state treasury in the same manner as compensation of any other state employees is paid. Expenses necessarily incurred by any member of the board or by any of its employees while traveling in the performance of any of its duties hereby imposed shall likewise be paid in the same manner as are the expenses incurred by other state officers and employees.

HISTORY: Am. 1927, p. 18, Act 12, Imd. Eff. Mar. 25;—CL 1929, 202;—CL 1948, 17.2;—Am. 1967, p. 162, Act 133, Imd. Eff. Jun. 27.

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17.3 Administrative board: supervisory control over administrative departments; limitations as to appropriations; duties of administrative officials.

Sec. 3. The state administrative board shall exercise general supervisory control over the functions and activities of all administrative departments, boards, commissioners and officers of the state, and of all state institutions: Provided, however, The said board shall not have power to transfer any appropriation to the general fund at any time or use the same for any purpose other than that designated by the legislature: Provided further, That said board shall not have power to allow to any state department, board, commission, officer or institution any funds, not appropriated therefor by the legislature, from any source whatever, except as provided in the emergency appropriation act of 1931; and said administrative board shall not have the power to transfer to any state department, board, commission, officer or institution any sum from the amount appropriated by the legislature for any other purpose, except to inter-transfer funds within the appropriation for the particular department, board, commission, officer or institution. Said board may in its discretion intervene in any matter touching such functions and activities and may, by resolution or order, advise or direct the department, board, commission, officer or institution concerned as to the manner in which the function or other activity shall be performed, and may order an interchange or transfer of employees between departments, boards, commissions and state institutions when necessary. It is hereby made the duty of each and every official and employee connected with any administrative department, office or institution of the state to follow the direction or order so given; and to perform such services in the carrying out of the purposes and intent of this act as may be required by the board. Failure so to do shall be deemed to constitute malfeasance in office and shall be sufficient cause for removal.

HISTORY: Am. 1927, p. 18, Act 12, Imd. Eff. March 25;—CL 1929, 203;—Am. 1931, p. 12, Act 6, Imd. Eff. March 31;—CL 1948, 17.3.
NOTE: The emergency appropriation act of 1931 was repealed and superseded by Act 120, 1937, being Compilers' § 5.1 et seq.

Sec. 4.

HISTORY: CL 1929, 204;—Rep. 1933, p. 284, Act 187, Imd. Eff. June 28.
NOTE: This section provided for transfer to state administrative board of powers of budget commission and director. For present law, see Compilers' §§ 21.1 to 21.16.

17.5 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section vested administrative board with powers and duties granted to state purchasing agent.

17.6 Administrative board: transfer and appropriation of funds prohibited; supervision of state construction; state accounting assigned to auditor general.

Sec. 6. The state administrative board shall not have power to allow to any state department, board, commission, officer or institution any funds, not appropriated therefor by the legislature, from any source whatever, except as provided in the emergency appropriation act of 1937; and said administrative board shall not have power to transfer to any state department, board, commission, officer or institution any sum from the amount appropriated by the legislature for any other purpose, except to inter-transfer funds within the appropriation for the particular department, board, commission, officer, or institution. The board may also engage suitable and necessary architectural service for the state, and for state, and public educational institutions and may appoint or employ one or more competent architects or superintendents of construction for the supervision of the construction and repair of state buildings and other state works. The compensation of any architect or superintendent so appointed or employed shall be fixed by the board.

Nothing in this act shall be construed to give the state administrative board control

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over the system of state accounting and the manner of handling such work, which shall be the function of the department of the auditor general.

HISTORY: CL 1929, 206;—Am. 1931, p. 12, Act 6, Imd. Eff. March 31;—Am. 1939, p. 55, Act 31, Imd. Eff. April 10;—CL 1948, 17.6.

NOTE: The emergency appropriation act is Act 120, 1937, being Compilers' § 5.1 et seq.

ACCOUNTING: A uniform system of accounting in state departments, offices and institutions and county offices is provided by Act 71 of 1919, being Compilers' §§ 21.41. Amendatory Act 31 of 1939 repealed section 2 of amendatory Act 187 of 1921, which amended sections 2, 5 and 8 of Act 71 of 1919, being Compilers' §§ 21.41 et seq. Sec. 2 of Act 187 read as follows: "Nothing in this act shall be construed to abridge or interfere with the control of state accounting or auditing by the State Administrative Board, as provided by senate enrolled act number two of the Public Acts of nineteen hundred twenty-one." Senate enrolled Act No. 2 is Act 2 of 1921, being Compilers' §§ 17.1 to 17.17.

17.7, 17.8 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for payment of expenses of administrative board and abolished certain boards and offices.

Sec. 9. (This was a repeal section.)

HISTORY: CL 1929, 209.

17.10 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section made declaration of necessity for public peace, health and safety.

17.11 Lieutenant governor, compensation as member of board.

Sec. 10. For all duties prescribed for and imposed upon him by this act, as a member of the state administrative board, the lieutenant governor shall be entitled to the sum of $3,500.00 per annum. Said compensation shall be in addition to the salary of the lieutenant governor as lieutenant governor of the state of Michigan. The compensation herein authorized shall be paid out of any moneys in the general fund not otherwise appropriated, and in the same manner as are the salaries of other state officers.

HISTORY: Add. 1921, p. 715, Act 389, Eff. Aug. 18;—CL 1929, 211;—Am. 1939, p. 687, Act 296, Eff. Sep. 29;—Am. 1941, p. 344, Act 228, Imd. Eff. Jun. 16;—CL 1948, 17.11;—Am. 1948, 2nd Ex. Sess., p. 10, Act 4, Eff. Jan. 1, 1949;—Am. 1949, p. 18, Act 20, Eff. Jul. 1.

NOTE: Sec. 10 of act was evidently intended as Sec. 11.

Act 282, 1919, p. 492; Imd. Eff. May 13.

AN ACT to regulate the purchasing of all supplies, except material for manufacturing on state account, for the various state institutions; to create the office of state purchasing agent and the advisory board in the matter of state purchasing, and to define their powers and duties; and making an appropriation to carry out the provisions of this act.

The People of the State of Michigan enact:

17.21 State purchasing: application of act and institutions excepted.

Sec. 1. All supplies, merchandise and articles of every description and character, including building materials, necessary for the maintenance, extension or operation of all state, penal, reformatory, charitable and educational institutions, except the University of Michigan and the Michigan Agricultural College, shall hereafter be acquired and purchased, and paid and accounted for in the manner provided in this act: Provided, however, That this act shall not apply to material purchased for manufacture on state account at any institution: Provided further, That if at any time the University of Michigan, the Michigan Agricultural College or any city or county institution should desire to join with the state institutions in making their purchases under the provisions of this act, they may do so, but no city or county institution shall have any voice in the selection of the advisory board hereafter provided for.

HISTORY: CL 1929, 239;—CL 1948, 17.21.

POWERS AND DUTIES: Transfer to department of administration, see Compilers' § 18.1 et seq.

17.22, 17.23 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for appointment, compensation, duties, oath and bond of purchasing agent.

Secs. 4-5.

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

NOTE: These sections provided for the organization of the advisory board in the matter of state purchasing and are obsolete.

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17.26 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section provided for determination of standards for supplies by purchasing agent.

Sec. 7.

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

NOTE: This section provided for compensation of members of the advisory board in the matter of state purchasing and is obsolete.

17.28 Purchasing agent to contract for supplies: estimates; preference for state products.

Sec. 8. It shall be the duty of the purchasing agent aforesaid to contract for or purchase all supplies, merchandise and articles of every description, including building materials, needed for the maintenance, extension or operation of each of the penal, reformatory, charitable and educational institutions, except those supplies that are of a strictly perishable character, basing his contract or contracts upon estimates to be furnished him by the stewards or executive officers of said institutions respectively. Such estimates shall be furnished the purchasing agent at such times as shall be fixed by the advisory board. In all purchases made by the state purchasing agent, all things being equal, preference shall be given to state or home products.

HISTORY: CL 1929, 243;—CL 1948, 17.28.

17.29-17.36 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections related to regulation of purchases by purchasing agent, provided for assistants, office and equipment; imposed penalties.

Sec. 17. (This was an appropriation and tax clause section.)

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

17.38 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section repealed conflicting acts and parts of acts.

Act 35, 1921, p. 53; Eff. Aug. 18.

AN ACT prohibiting the letting of state or municipal contracts upon a "cost-plus" basis, so-called.

The People of the State of Michigan enact:

17.41 Cost-plus contracts unlawful; exception.

Sec. 1. Hereafter it shall be unlawful for any officer, board, commission or other person acting on the part of the state or of any municipality thereof, to enter into any contract with any person, or persons, or corporation for the construction of any public building, highway, bridge, or any equipment, machinery or other structure pertaining to such construction, or for the making of repairs or improvements to existing buildings, roads or bridges or other structures, wherein the consideration for such work or material shall be expressly based upon the cost thereof plus a percentage over and above such cost. The intent of this act is to prohibit the making of such contracts upon what is commonly known and designated as the "cost-plus" plan: Provided, however, That the provisions of this act shall not prohibit the making of a contract upon the so-called cost-plus basis if such contract shall provide a definite sum not exceeding 20,000 dollars as the maximum which shall be paid to the contractor, which maximum sum shall also be stated in the proposal where such contract is awarded upon competitive bidding.

HISTORY: CL 1929, 481;—CL 1948, 17.41.

17.42 Cost-plus contracts void.

Sec. 2. Any contract made in violation of the provisions of this act shall be held to be null and void from the beginning thereof and not voidable only.

HISTORY: CL 1929, 482;—CL 1948, 17.42.

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17.51-17.57 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.
Sections provided for use of Michigan mined coal in public buildings and institutions and provided penalties.

Act 98, 1929, p. 238; Eff. Aug. 28.

AN ACT to authorize and empower the state administrative board, the board of regents of the state university, the state board of agriculture, and any municipality, to contract for the furnishing of sewage, light, water, fire protection or other facilities to state institutions, and to authorize said board or boards to grant to municipalities the consent of the state to enter upon state lands for the purpose of constructing and maintaining any sewer, water mains, or other public improvement. Am. 1937, p. 342, Act 214, Eff. Oct. 29.

The People of the State of Michigan enact:

17.71 Contract with municipality to furnish public improvements to state institution.

Sec. 1. The state administrative board, the board of regents of the state university, the state board of agriculture, and any municipality or other political subdivision of the state, wherein or in the vicinity of which is located any state institution, are hereby authorized and empowered to contract for the furnishing to such state institution or institutions sewage and garbage disposal facilities, lights, water, fire protection and other public improvements.

HISTORY: CL 1929, 441;—Am. 1937, p. 342, Act 214, Eff. Oct. 29;—CL 1948, 17.71.
STATE ADMINISTRATIVE BOARD: See Compilers' § 17.1 et seq.
BOARD OF REGENTS: Compilers' § 390.4.

17.72 Contract with municipality, sharing cost of construction of facility; payment.

Sec. 2. The state administrative board and such other boards and political subdivision are here further authorized to enter into a contract for the purpose of sharing in the cost of construction, maintenance and operation of any fire protection apparatus, waterworks, sewage or garbage disposal plant, for the benefit of any state institution or institutions to be served thereby. Such contracts shall be made upon such terms and conditions as the said board shall determine, and the cost of the furnishing of such facilities or the construction, maintenance and operation of such plants or apparatus, as the case may be, shall be charged to and paid out of the appropriation of the institution served and benefited by such facility or improvements, or out of any unexpended balance in the general fund of the state not otherwise appropriated, in the discretion of the state administrative board.

HISTORY: CL 1929, 442;—Am. 1937, p. 342, Act 214, Eff. Oct. 29;—CL 1948, 17.72.

17.73 Municipality permitted entry on state lands for construction of public improvement.

Sec. 3. The state administrative board and such other boards are hereby further authorized to grant to any municipality or political subdivision of this state the consent of the state of Michigan to enter upon any state lands for the purpose of constructing and maintaining thereon any sewer, water mains or other public improvement.

HISTORY: CL 1929, 443;—CL 1948, 17.73.

17.74 Contract with municipality for sewage disposal, without amendment to charter.

Sec. 4. Any municipality in or near which a state institution may be located shall have authority to contract with the said institution by and through the governing body of that institution or the state administrative board for the disposal of sewage from

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such institution in a sewage disposal plant owned and operated by the city or to enter into a contract with the governing body of that institution or the state administrative board for the joint construction and operation of a sewage disposal plant, the governing body of such municipality shall have authority to enter into such contract without an amendment to its charter.

HISTORY: CL 1929, 444;—CL 1948, 17.74.

17.75 Construction of act.

Sec. 5. Nothing in this act contained shall be construed as a consent on the part of the state of Michigan to the assessment of its property for public improvements.

HISTORY: CL 1929, 445;—CL 1948, 17.75.

17.76 Contract regarding lands controlled by board of regents or state board of agriculture; approval.

Sec. 6. Whenever any lands involved in such contract are under the control of the board of regents of the state university or the state board of agriculture, any such contract must also have the approval of such board.

HISTORY: CL 1929, 446;—CL 1948, 17.76.

17.81-17.84 Repealed. 1962, p. 21, Act 26, Eff. Mar. 28, 1963.

Sections authorized loans by administrative board to certain rotary or revolving funds and required reports.

17.91, 17.92 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections authorized payment of medical and personal injury expenses to guardsmen.

Act 128, 1931, p. 197; Eff. Sep. 18.

AN ACT to authorize the state administrative board to pay compensation for injuries sustained by persons drafted into service for the state, and to make appropriations therefor.

The People of the State of Michigan enact:

17.101 Drafted persons; definition, claims for compensation by state for injuries.

Sec. 1. The state administrative board is hereby authorized and empowered to investigate and pass on claims for compensation for injuries sustained by any person drafted to assist any state official or employe authorized to command the assistance of such drafted person in the performance of his duties as such state official or employe: Provided, however, That the compensation allowed such injured drafted person shall be on the same basis and equal to the compensation the drafting state official or employe would receive under the workmen's compensation act in case of a similar injury. The term "drafted person" as used in this act shall be construed to include any person commanded to assist any state official or employe authorized by law to command the assistance of bystanders in the performance of his duties as such state official or employe.

HISTORY: CL 1948, 17.101.

17.102 Drafted persons; payment of claims.

Sec. 2. Upon the order of the state administrative board allowing such claim, the auditor general shall issue his warrant upon the state treasurer for such sum as shall be allowed by said board.

HISTORY: CL 1948, 17.102.

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17.103 Appropriations from general fund for payment of claims.

Sec. 3. There is hereby appropriated from the general fund, from moneys not otherwise appropriated, for the fiscal year ending June 30, 1932, and each fiscal year thereafter, a sufficient sum to carry out the provisions of this act.

HISTORY: CL 1948, 17.103.

Act 231, 1935, p. 386; Eff. Sep. 21.

AN ACT to confer upon state officers, their deputies and assistants, the power to administer oaths and examine any person in the conduct of investigations, inquiries, and examinations within the scope of their respective powers, and to subject to the penalties of perjury any person who shall wilfully swear falsely in regard to any matter or thing, respecting which such oath is authorized.

The People of the State of Michigan enact:

17.121 State officers and assistants authorized to administer oaths and examine witnesses in conduct of investigation.

Sec. 1. Hereafter, in the conduct of any investigation, inquiry, or examination within their respective constitutional or statutory powers, express or implied, the governor, the lieutenant governor, the secretary of state, the attorney general, the state treasurer, the auditor general, the superintendent of public instruction, or the commissioner of highways, their several deputies or assistants, are hereby authorized and empowered to administer oaths and examine, as a witness, any person thereunder.

HISTORY: CL 1948, 17.121.

17.122 Oaths administered by state officers and assistants in conduct of investigation, penalty for perjury.

Sec. 2. Any person so examined who shall wilfully swear falsely, in regard to any matter or thing, respecting which such oath is authorized or required, shall be subject to the penalties of perjury prescribed in section 423 of Act No. 328 of the Public Acts of 1931.

HISTORY: CL 1948, 17.122.

NOTE: Section 423, Act 328, 1931, above referred to, is Compilers' § 750.423.

17.131 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section authorized payment of state employee's personal injury claims.

17.151-17.155 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections permitted purchase of government surplus property for state agencies.

17.201-17.206 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for construction of state office building, remodeling of Capitol, and creation of state office building commission and prescribed its powers and duties.

Act 28, 1944 (1st Ex. Ses.), p. 49; Imd. Eff. Mar. 3.

AN ACT to authorize the state administrative board to acquire certain lands in the city of Lansing for a state office building.

The People of the State of Michigan enact:

17.221 Lands for state office building, authority to acquire.

Sec. 1. The state administrative board is hereby authorized to acquire on behalf of the people of the state of Michigan the necessary lands in blocks 102, 103, 108 and 109, or in block 124, of the original plat of the city of Lansing, in the city of Lansing

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for the construction of a state office building. In the acquisition of such lands, in case condemnation proceedings are deemed necessary by the state administrative board, said board may institute said proceedings under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 3763 to 3783, inclusive, of the Compiled Laws of 1929, and the provisions of said act shall govern any such condemnation proceedings.

HISTORY: CL 1948, 17.221.

NOTE: Sections 3763 to 3783, inclusive, CL 1929, above referred to, are Compilers' §§ 213.21 to 213.41 inclusive.

17.222 Expenditures for state office building site authorized within legislative appropriation.

Sec. 2. In the acquisition of any lands under the provisions of this act, the state administrative board shall make expenditures therefor within any appropriation or appropriations made by the legislature.

HISTORY: CL 1948, 17.222.

Act 315, 1947, p. 515; Eff. Oct. 11.

AN ACT to authorize the state administrative board to lease certain land owned by the state of Michigan to any state public building corporation, and to lease from any said corporation space in a building or buildings constructed for its use on such land.

The People of the State of Michigan enact:

17.251 Lease of state lands to public building corporation, subject to legislative approval.

Sec. 1. The state administrative board is hereby authorized and empowered to lease to any state public building corporation, real property owned by the state of Michigan, acquired for the purpose of site or sites for public buildings, and to lease from any said public building corporation in the name of the state space in a building or buildings constructed for its use on such land. Each such lease shall be subject to the approval of the attorney general of the state. No such lease shall become effective until approved by the legislature by concurrent resolution.

HISTORY: CL 1948, 17.251.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.13.

PUBLIC BUILDING CORPORATIONS: See Compilers' § 450.186a et seq.

Act 9, 1947, p. 15; Imd. Eff. Mar. 10.

AN ACT to authorize the state administrative board to purchase and acquire certain property in the city of Detroit; to make an appropriation therefor; to prescribe the powers and duties of the state board of auditors with respect thereto; and to provide for the crediting of rental and other revenues to the general fund.

The People of the State of Michigan enact:

17.301 Boulevard building in Detroit: acquisition, appropriation, expenditure, unexpended balance.

Sec. 1. The state administrative board is hereby authorized to purchase and acquire in the name of the people of the state of Michigan trust property located in the city of Detroit at the corner of Grand boulevard and Woodward avenue, known as the Boulevard building, at a price of not to exceed $1,600,000.00.

There is hereby appropriated from the general fund the sum of $1,600,000.00 for the purpose of carrying out the provisions of this act. Said appropriation shall be ex-

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pended in accordance with the accounting laws of this state. Any unexpended balance in said appropriation shall revert to the general fund on the completion of the purchase herein authorized, or at such other time as the state administrative board shall determine.

HISTORY: CL 1948, 17.301.
CITED IN OTHER SECTIONS: The above section is cited in § 18.102.

17.302 Boulevard building: management, rental terms and rates, and withdrawal of exceptions.

Sec. 2. The management and operation of said Boulevard building shall be under the control and supervision of the department of administration.

The department of administration shall establish rental terms with respect to the use of the Boulevard building by the Michigan employment security commission and all other tenants, based on current rates for similar buildings in the same vicinity, and all revenues received with respect thereto shall be credited to the state general fund: Provided, however, That after the "book cost" of said building has been amortized, the rental rate charged by the department of administration to said commission for the space that it occupies in the Boulevard building shall be limited to its pro rata share of the total maintenance and operations costs of the entire building. The "book cost" of said building is hereby defined as the full purchase price of the building, plus the cost of capital improvements subsequently made and interest on the state's investment computed at the rate of 2 ½% per annum, such computation to be made on a semi-annual basis after applying revenue heretofore received from the building by the state against the purchase price and cost of capital improvements: Provided, That any exceptions to payments of rental charges heretofore made by the audit division of the bureau of employment security of the United States department of labor or by the Michigan employment security commission to the state of Michigan shall be withdrawn as a condition precedent to taking advantage of the provisions of this act.

HISTORY: CL 1948, 17.302;—Am. 1955, p. 207, Act 141, Eff. Oct. 14.
CITED IN OTHER SECTIONS: The above section is cited in § 18.102.

Act 2, 1954 (Ex. Ses.), p. 9; Imd. Eff. Aug. 20.

AN ACT authorizing and empowering the state administrative board to contract relative to the property right of the state of Michigan in inventions, discoveries and letters patent thereon; and to provide for the disposition of moneys received therefrom.

The People of the State of Michigan enact:

17.401 Contracts relative to state property rights in inventions, discoveries, and patents thereon; provisions of such contracts; liability of state.

Sec. 1. The state administrative board is hereby authorized and empowered to enter into contracts relating to any invention or discovery of any new and useful process, machine, manufacture, organism, product or composition of matter, or any new and useful improvement thereof, or any invention or discovery and asexual reproduction of any distinct and new variety of plant, affecting the public health, which invention or discovery or any patent obtained thereon is owned by the state of Michigan, or in which the state of Michigan has any property right. The state administrative board is authorized to employ, as occasion demands, patent attorneys on request of the attorney general. The contracts of the state administrative board may provide for the exploration of the character, use, properties, capabilities or commercial value of such invention or discovery, and may provide for the granting of licenses to make, or have

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made, use and sell such invention or discovery, whether patented or not, upon such terms and conditions as seem expedient and proper to the state administrative board. The state of Michigan shall not be liable for any act of negligence or breach of contract committed by any contracting party, nor shall any such contract create an obligation on the part of the state for the expenditure of any money, except the expense of litigation in suits involving the protection of the state's property right.

HISTORY: New 1954, Ex. Ses., p. 9, Act 2, Imd. Eff. Aug. 20.

17.402 Contracts relating to inventions, discoveries and patents; approval of attorney general.

Sec. 2. Each such contract shall be subject to the approval of the attorney general of the state as to form and validity.

HISTORY: New 1954, Ex. Ses., p. 9, Act 2, Imd. Eff. Aug. 20.

17.403 Contracts relating to inventions, discoveries and patents; disposition of receipts.

Sec. 3. All moneys received by virtue of any such contract shall be turned over to the state treasurer and credited to the general fund of the state.

HISTORY: New 1954, Ex. Ses., p. 9, Act 2, Imd. Eff. Aug. 20.

Act 266, 1967, p. 504; Imd. Eff. Jul. 19.

AN ACT to authorize and provide for the issuance of notes of the state; to provide funds to meet obligations incurred pursuant to appropriations for fiscal years; and to provide for the payment of such notes from revenues received during the same fiscal years.

The People of the State of Michigan enact:

17.451 State borrowing and issuance of notes of state in anticipation of revenues permitted.

Sec. 1. The state administrative board is authorized to borrow money on the full faith and credit of the state and issue notes of the state in anticipation of the receipt of undedicated revenues in the same fiscal year when in its judgment such money is needed to meet obligations incurred pursuant to appropriations in that fiscal year.

HISTORY: New 1967, p. 504, Act 266, Imd. Eff. Jul. 19.

17.452 Limitations on indebtedness and time for repayment.

Sec. 2. Such indebtedness shall not exceed 15% of undedicated revenues received by the state during the preceding fiscal year. The same percentage of undedicated revenues received in the fiscal year that the notes were issued, that the amount borrowed bears to undedicated revenues received by the state during the preceding fiscal year, but not less than an amount necessary to pay principal and interest on such notes, shall be pledged for the repayment of such indebtedness. Such amount shall be adjusted not later than 30 days preceding the end of such fiscal year, if necessary, so that the amount pledged equals the amount borrowed plus interest. Such indebtedness shall be repaid at the time such revenues are received but not later than the end of the same fiscal year.

HISTORY: New 1967, p. 505, Act 266, Imd. Eff. Jul. 19.

17.453 Issuance of notes: form, interest, execution and sale.

Sec. 3. The notes may be made payable prior to maturity at the option of the state administrative board at such times and in such a manner as shall be determined by the board. Such notes shall bear interest at a rate and be in a form approved by the board. The notes may be in serial form if the board so determines. The notes shall be exe-

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cuted for and on behalf of the state of Michigan by the state treasurer and may be sold at either public or private sale as shall be determined by the board.

HISTORY: New 1967, p. 505, Act 266, Imd. Eff. Jul. 19.

17.454 Use of proceeds of loan restricted.

Sec. 4. The proceeds of any loan under this act shall not be used to pay in advance appropriations to any municipality as defined in section 2 of Act No. 202 of the Public Acts of 1943, as amended, being section 131.2 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 505, Act 266, Imd. Eff. Jul. 19.

Act 112, 1956, p. 218; Imd. Eff. Apr. 13.

AN ACT to authorize the state administrative board to contract with any political subdivision for the sale of steam for heating by a state institution, and to provide for disposition of revenues.

The People of the State of Michigan enact:

17.501 Fairmount hospital, contract for heating by state institution; disposition of revenues.

Sec. 1. The state administrative board may contract with any political subdivision for the furnishing of steam for heating the Fairmount hospital in the city of Kalamazoo by any state institution. The contracts shall be made upon such terms and conditions as the board shall determine and shall terminate upon 2 years' notice from the board. The county shall pay the cost of installing and maintaining such equipment and facilities as shall be necessary to convey the steam for heating from the state institution to said Fairmount hospital. All revenue received from such contracts shall be paid into the general fund of the state.

HISTORY: New 1956, p. 218, Act 112, Imd. Eff. Apr. 13.

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CHAPTER 18. DEPARTMENT OF ADMINISTRATION

DEPARTMENT OF ADMINISTRATION
Act 51 of 1948 (Ex. Ses.)

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18.259 Federal surplus property; rules and regulations for utilization. houses.
18.260 Federal surplus property; bonds for employees handling same.
18.261 Federal surplus property; obligation of state by department prohibited; ware-

Act 51, 1948 (Ex. Ses.), p. 117; Eff. Aug. 20.

AN ACT to create a department of administration; to prescribe its powers and duties and define the authority and functions of its divisions; to transfer to said department the powers and duties of certain state agencies; and to make an appropriation for said department.

The People of the State of Michigan enact:

18.1 Department of administration act; short title.

Sec. 1. This act shall be known and may be cited as "the department of administration act."

HISTORY: CL 1948, 18.1.

CITED IN OTHER SECTIONS: Sections 18.1 to 18.16 are cited in §§ 16.112 and 16.202.

18.2 Department of administration, creation; controller, appointment and compensation.

Sec. 2. There is hereby created a department of the state government which shall be known and designated as the department of administration, hereinafter referred to as the department, and which shall consist of a controller as its executive head and of such officers and employees as may be appointed or employed in such department. The controller shall be appointed by the governor, subject to the consent of the senate, and shall hold office at the pleasure of the governor. The controller shall be well versed in administrative management and in state governmental affairs. His salary shall be such as shall be appropriated by the legislature.

HISTORY: CL 1948, 18.2.

18.3 Department of administration: divisions; powers, duties and functions of controller; deputy controller.

Sec. 3. The department shall consist of a budget division, a purchasing division, an accounting division, a motor transport division, a building engineering and management division, and an office services division. The controller is empowered to organize the department and the divisions thereof herein specified, and to transfer or merge functions between divisions thereof in the interest of economy and efficiency. He shall exercise direction and supervision over the divisions established within the department in the performance of their respective functions. He is authorized to employ 1 deputy controller. The controller, or the deputy controller, when so designated by the controller, shall serve as secretary of the state administrative board.

HISTORY: CL 1948, 18.3.

18.4 Department of administration, duties and functions.

Sec. 4. The department of administration, under the direction and supervision of the controller or his deputy, acting through the divisions herein provided, shall have the following duties and functions, subject to the sections of this act transferring and vesting appropriate powers and authority in the department, and to other laws not inconsistent therewith:

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Budget.

(a) Subject to the direction and supervision of the governor, prepare a budget for the several state departments, institutions, boards, commissions, and offices and administer the enacted state budget.

Accounting systems, procedures, and methods.

(b) Devise, formulate, promulgate, supervise, and control the accounting systems, procedures and methods of the state departments, boards, commissions and institutions, conforming to such accounting standards and methods as are prescribed by law.

Purchases; contracts; printing; utility services; paper and stationery revolving fund.

(c) Purchase or contract for the supplies, materials, articles, equipment, printing and utility services needed by state departments and agencies; prescribe standard specifications therefor and enforce compliance with such specifications; supervise and control the advertisement of bids and awards for state purchases and regulate the making of purchase contracts by state institutions; regulate the requisitioning and storage of purchased items, the disposal of surplus and salvage, and the transfer to or between state departments and agencies of needed supplies, equipment and materials. There is hereby authorized a paper and stationery revolving fund which shall be used only for the purchase of paper, stationery and office supplies required by the several agencies of the state to be purchased in large quantities, when in the opinion of the department it is advantageous or essential to the proper and economical operation of the state government. Such operation shall be within the amount appropriated by the legislature: Provided, That the inventory value of stock shall not exceed $200,000.00 at any time during the fiscal year. The department shall furnish an annual report to the legislature showing operating costs, value and quantity of inventories, volume of transactions and such other information as is necessary to permit a complete review and understanding of the operation and financial condition of the fund. The department shall formulate rules and regulations governing the operation of purchasing, which rules and regulations when formulated shall be subject to the approval of the state administrative board pursuant to the authority established by Act No. 2 of the Public Acts of 1921, as amended, being sections 17.1 to 17.11 of the Compiled Laws of 1948.

Repair, inspection, inventory, reports of state property.

(d) Maintain, equip and keep in a state of repair the state capitol, the state office buildings and other premises owned or rented by the state for the use of any department, board, commission or institution, excepting state hospitals or institutions the control of which is vested by law in some other agency; provide for the periodic inspection, appraisal and inventory of all state buildings and property, real and personal, and require reports from state agencies on the buildings and property in their custody; issue regulations to govern the protection and custody of the property of the state of Michigan.

Office and storage space.

(e) Assign office and storage space and rent and lease land and buildings for the use of the several state departments, boards and commissions in the manner provided by law, subject to the approval of the state administrative board.

Motor vehicles.

(f) Control and supervise the acquisition, operation, maintenance, repair and replacement of state owned motor vehicles by state agencies.

Central duplicating and mailing service; supplemental clerical and stenographic assistance; office services revolving fund.

(g) Maintain and operate a central duplicating and mailing service for the several state departments and agencies; provide centrally available supplemental clerical and

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stenographic assistance; and furnish the several departments and agencies of the state with other essential office services. There is hereby established an office services revolving fund through which these services may be rendered to the agencies of state government. The state administrative board is hereby authorized to advance a sum not to exceed $10,000.00 from the general fund as working capital. The department shall furnish an annual report to the legislature showing operating costs, value and quantity of inventories, volume of transactions including items and dollars and such other information as is necessary to permit a complete review and understanding of the operation and financial condition of the fund.

Travel expense regulations.

(h) Make and administer regulations relative to the travel of officers and employees of the several state departments and agencies when engaged in the performance of state business and their reimbursement for travel expenses necessarily and actually incurred when thus engaged, which regulations, when formulated, shall be subject to the approval of the state administrative board.

Survey of administrative organization.

(i) Survey and examine the administrative organization and operations of the state departments, boards, bureaus, commissions, institutions and offices, submitting to the governor measures to secure greater administrative efficiency and economy, to minimize the duplication of activities, and to effect a better organization and consolidation of functions among state agencies.

HISTORY: CL 1948, 18.4;—Am. 1952, p. 442, Act 262, Eff. Sep. 18;—Am. 1962, p. 454, Act 210, Eff. Mar. 28, 1963.

CITED IN OTHER SECTIONS: The above section is cited in §§ 18.201 and 37.2.

18.4a State capitol building, assignment of space.

Sec. 4a. Hereafter all space on the second, third and fourth floors of the state capitol building, upon being vacated by the offices and agencies presently assigned thereto, shall be assigned by the executive board of the legislative service bureau.

HISTORY: Add. 1956, p. 461, Act 213, Imd. Eff. May 1;—Am. 1961, p. 7, Act 7, Imd. Eff. Apr. 1.

18.5 Enumeration of department of administration functions, how construed.

Sec. 5. The enumeration of duties and functions in section 4 shall not be deemed exclusive nor construed as a limitation on the powers and authority vested in the department by other sections of this act.

HISTORY: CL 1948, 18.5.

18.5a Department of administration; central data processing centers.

Sec. 5a. The department of administration shall establish central data processing centers for the several state agencies; approve the acquisition and use of electronic data processing equipment by state agencies; furnish staff assistance in methods, systems and programing work to other state agencies; and arrange for and effect the centralization and consolidation of equipment and services in order to obtain maximum utilization and efficiency.

HISTORY: Add. 1964, p. 260, Act 189, Imd. Eff. May 20.

18.6 Adoption of rules and regulations by controller for administration of act.

Sec. 6. The controller is empowered to adopt and amend such reasonable administrative and procedural rules and regulations, not inconsistent with any applicable law of this state, as he may deem necessary for the effective administration of this act and

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to accomplish its intent and purposes: Provided, That such rules and regulations as amended shall be approved by the governor, subject to Act No. 88 of the Public Acts of 1943, as amended, and a copy thereof shall be kept on file in the office of the controller.

HISTORY: CL 1948, 18.6.

NOTE: Act 88, 1943, above referred to, is Compilers' § 24.71 et seq., which was repealed.

18.7 Department of administration organizational surveys of state agencies to increase efficiency.

Sec. 7. The department, through the controller and his authorized assistants, is hereby authorized to make administrative and organizational surveys of the executive or administrative departments, boards, institutions, commissions or agencies of the state government to determine whether the activities thereof are essential to good government and are being carried on in an economical and efficient manner and without duplication, for the purpose of determining the feasibility of improving the administration of the state government by the elimination of unnecessary positions and activities, the avoidance of duplication, and increasing efficiency and economical operation.

HISTORY: CL 1948, 18.7.

18.8 State reports and publications; powers, duties and functions relating thereto transferred to department of administration.

Sec. 8. The controller shall determine the precise number and distribution of all state reports and publications; and fix the style, form, binding, topography and quality of paper, and size of state reports and publications.

The powers, authority and duties granted to and imposed by law upon the office of the secretary of state and the board of state auditors respecting the deposit, distribution, delivery, approval of printing requisitions and orders for authorized publications from the state printer are hereby transferred to and vested in the department of administration: Provided, That all contracts for printing in excess of $2,000.00 shall be subject to approval by the state administrative board.

HISTORY: CL 1948, 18.8;—Am. 1954, p. 32, Act 24, Eff. Aug. 13.

POWERS: See Compilers' §§ 24.1 et seq. and 26.1 et seq.

18.9 Budget division; powers and duties.

Sec. 9. The budget division of the department shall be vested with the powers and duties granted to and imposed on the office of budget director by the state budget act as amended.

Whenever the state budget act or any amendment thereof uses the term budget director or office of budget director, or whenever any law of the state relating to appropriations, allotments, transfers between or advances to funds, uses the term budget director or office of budget director, reference shall thereby be understood to be made to the budget division of the department. The present office of budget director is hereby abolished.

Authority to transfer funds within an appropriation for a particular department, board, commission, office or institution is hereby transferred to and vested in the budget division of the department: Provided, That all such transfers shall be reported to and first approved by the state administrative board.

HISTORY: CL 1948, 18.9.

POWERS: See Compilers' § 21.1 et seq.

18.10 Purchasing division; powers, duties and functions; inspection of goods.

Sec. 10. The purchasing division of the department shall be vested with the powers and authority, and shall perform the duties, granted to and imposed by law on the state administrative board pertaining to state purchasing. Whenever the term state ad-

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ministrative board or purchasing division of the state administrative board is used in any law of the state on matters pertaining to state purchasing, including the purchase of government surplus property when needed by departments, institutions or other state agencies, reference shall thereby be understood to be made to the purchasing division of the department. The purchasing division of the state administrative board is hereby abolished and its records transferred to the purchasing division of the department.

The purchasing division of the department shall also be vested with the powers and authority, and shall perform the duties, granted to and imposed by law on the state administrative board pertaining to contracts with any municipality or other political subdivisions of the state for furnishing to state institutions sewage and garbage disposal facilities, lights, water, fire protection and other public improvements or services, including contracts for the purpose of sharing in the cost of construction, maintenance and operation of any fire protection apparatus, waterworks, sewage or garbage disposal plant, for the benefit of any state institution or institutions to be served thereby, subject to the approval of the state administrative board.

The purchasing division of the department shall be vested with the powers and authority, and shall perform the duties, granted to and imposed by law on the board of state auditors pertaining to state purchasing. Whenever the term board of state auditors is used in any law of the state on matters pertaining to state purchasing, including purchases for the rebuilding, replacement, or repair of any state building or property damaged or partially destroyed by fire, explosion or other accident, or whenever the term board of state auditors is used in any law of the state regulating contracts and orders for supplies, merchandise, materials, articles, facilities or services of every description and character, including but not by way of limitation contracts for state printing and binding, for the legislative, the executive and the judiciary departments, reference shall thereby be understood to be made to the purchasing division of the department.

The purchasing division of the department in cooperation with the several departments, institutions and agencies shall establish such inspection of goods received as will assure compliance with specifications as to quality and quantity.

HISTORY: CL 1948, 18.10;—Am. 1953, p. 49, Act 54, Eff. Oct. 2.

POWERS: See Compilers' § 17.21 et seq.

18.11 Motor transport division; powers, duties and functions; division of automotive control, transfer and abolition.

Sec. 11. The motor transport division of the department shall be vested with the powers and authority, and shall perform the duties, granted to and imposed by law on the division of automotive control in the office of the state budget director on matters pertaining to the acquisition, operation, maintenance, repair and replacement of motor vehicles owned by the state of Michigan, or any department, board, institution, commission or agency thereof. The responsibility imposed by law on the state budget director for the direction of the operations of the division of automotive control and for the appointment of division personnel is hereby transferred to and vested in the motor transport division of the department. The division of automotive control is hereby abolished and transferred to the motor transport division of the department.

HISTORY: CL 1948, 18.11.

POWERS: See Compilers' § 21.301 et seq.

18.12 Accounting division of department; powers, duties and functions; auditor general and controller of department; powers and duties.

Sec. 12. The accounting division of the department shall maintain a central system of state accounts and shall be vested with the powers, and shall perform the functions and duties, granted to and imposed by law on the auditor general pertaining to the de-

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vising, formulation, approval, installation and control of the accounting systems and accounting methods and procedures of state departments, boards, offices, institutions and commissions, and to the manner of handling the work of accounting. This section shall not affect the laws governing the settlement of claims and demands against the state.

Warrants upon the state treasury for the disbursement of funds to pay the financial obligations incurred by a state department, board, institution, commission or office shall be drawn and issued by the auditor general upon the certification by the controller, but only upon such certification, that the amount of the warrant: (1) does not exceed the appropriation made to agency; (2) does not exceed the periodic budget allotment made to the agency or the unencumbered balance of funds at its disposal; (3) is for a purpose included within the appropriation or otherwise authorized by law. The auditor general shall continue to exercise the powers vested in him by law relating to the audit of the accounting for the receipts and expenditures of every state department, board, institution and commission to ascertain if the accounting systems and records thereof conform to and are consistent with proper governmental accounting standards, if there has been any irregularity in the receipt, expenditure or disposition of any moneys received or appropriated, or if such funds have been disbursed and used for any purpose other than that provided by law, and shall report his findings thereon at least annually to the governor and legislature.

At the close of each fiscal year the accounting division shall prepare and the controller shall make available for inspection to the public a report which clearly reflects the financial position of each of the state funds as at the close of the fiscal year and the results of operations during such fiscal year. In form and content the financial statements shall conform to generally accepted governmental accounting standards and shall include certificates of examination of the auditor general and any other independent auditors he may assign.

The controller of the department shall prescribe rules and regulations, to be administered by the accounting division of the department, providing for and governing the establishment, the proper uses of, and accounting for petty cash funds by the several state offices and departments. Any such fund shall not exceed, at any time, the sum of $500.00 unless approved in a greater amount by the state administrative board.

HISTORY: CL 1948, 18.12;—Am. 1952, p. 135, Act 118, Eff. Sep. 18;—Am. 1965, p. 386, Act 222, Imd. Eff. Jul. 16.
POWERS: See Compilers' § 21.41 et seq.

18.13 Building engineering and management division; powers, duties and functions; building and construction division, transfer and abolition.

Sec. 13. (a) The building engineering and management division of the department shall be vested with the powers and authority, and shall perform the duties, granted to and imposed by law on the board of state auditors pertaining to (1) the general supervision, including the equipment, maintenance, and repair, of the state capitol and state office buildings, wherever located; (2) the leasing of quarters for the various state departments, subject to the approval of the state administrative board, and the assignment of quarters to the various departments in buildings owned or leased by the state; (3) the receipt from each state institution of a certified inventory of its land, buildings, and personal property; (4) authorizations for the repair or rebuilding of any state building or property damaged or partially destroyed by fire, explosion or other accident; (5) the promulgation and enforcement of rules and regulations for the care, preservation and protection of buildings and property dedicated and appropriated to the public use and within the jurisdiction or control of the board of state auditors, which rules and regulations, when formulated, shall be subject to the approval of the state administrative board.

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(b) The building engineering and management division of the department shall be vested with the powers and authority, and shall perform the duties granted to and imposed by law on the state administrative board pertaining to (1) the engagement of a suitable and necessary engineering and architectural staff for the purpose of approving plans and specifications submitted to the department for approval by the various superintendents of state institutions pertaining to the construction and repair of state buildings and other state works; (2) the lease of real and personal property of the state of Michigan to the armed forces of the United States, subject to the approval of the administrative board; (3) the lease of state owned real property to state public building corporations and the lease from such corporations of space in a building or buildings constructed for the use of the state on such land, subject to the approval of the state administrative board; (4) the approval and control of the designation by the head of any state department, board, institution or state commission of an employee as a custodian of property, real and personal, belonging to the state of Michigan.

The building and construction division of the state administrative board is hereby abolished and its functions, duties and records transferred to and vested in the building engineering and management division of the department. The building engineering and management division shall be subject to the general supervision of the state administrative board as provided by Act No. 2 of the Public Acts of 1921, as amended.

HISTORY: CL 1948, 18.13.

NOTE: Act 2, 1921, above referred to, is Compilers' § 17.1 et seq.

Powers as to public building corporations, see Compilers' § 17.251.

18.13a Office services division; functions, duties and responsibilities respecting state records.

Sec. 13a. The office services division of the department shall have the function, duty, and responsibility (1) to analyze, develop, and coordinate the standards, procedures, and techniques of record making and record keeping; (2) to insure the maintenance and security of records which are deemed appropriate for preservation; (3) to establish safeguards against unauthorized or unlawful removal, or loss of state records; (4) to initiate action to recover state records removed without authorization or unlawfully; (5) to establish and operate such state records centers as may from time to time be authorized by appropriation for the purpose of preserving, servicing, screening, and protecting all state records which must be preserved for a time or permanently, but which need not be retained in office space and equipment; (6) to institute and maintain a training and information program in all phases of records management in order to bring to the attention of the heads of all state agencies, or their designated records management representatives, approved and current practices, methods, procedures, and devices for the efficient and economical management of records; (7) to provide microfilm service for those state agencies or departments which do not need full time microfilming equipment.

HISTORY: Add. 1952, p. 230, Act 178, Eff. Sep. 18.

18.13b Records; definition; preservation, disposition, delivery to successor in office.

Sec. 13b. When used in this act the word "records" shall include any paper, book, photograph, motion picture film, microfilm, sound recording, map, drawing, or other document, or any copy thereof that has been made by any agency of the state of Michigan or received by it in connection with the transaction of public business and has been retained by that agency or its successor as evidence of its activities or because of the information contained therein. All records shall be and remain the property of the state of Michigan and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed in accordance with the provisions of this act. Such records shall be delivered by outgoing officials and employees to their successors, and shall not

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be otherwise removed, transferred, destroyed or otherwise disposed of, without authorization or unlawfully, except as provided for in section 13c, below.

HISTORY: Add. 1952, p. 230, Act 178, Eff. Sep. 18.

18.13c Records; purpose; procedures for transfer and authorized disposal or destruction.

Sec. 13c. The head of each agency, department, board or commission shall make, cause to be made, and/or file only such records as are deemed necessary by the responsible head of the agency, department or board involved: (1) for the continued effective operation of the agency; (2) to constitute an adequate and proper recording of its activities; and (3) to protect the legal rights of the government of the state of Michigan and of the people.

The following procedure shall be followed for the authorized transfer of records to a state records center: (1) the division of office services shall from time to time submit to each agency, department, board or commission a list of that agency's records which the division desires to have transferred to a state records center, giving the reasons why such transfer is deemed desirable; (2) the administrative head of the agency receiving such a list shall within 30 days notify the division of office services in writing of his approval or disapproval of the recommended transfer. The entire list or each part or item thereof shall receive specific written approval or disapproval, and any disapproved list or part or item thereof shall not again be recommended for transfer until after the passage of one year; (3) the division of office services with the consent of the responsible head of the agency, department, or board involved, shall make appropriate provision for the temporary loan of transferred records to such state agencies as may require the use thereof for the proper conduct of their activities, or to such other persons or agencies as may be legally entitled to the temporary use of such records for any purpose whatsoever.

The following procedure shall be followed for the authorized disposal or destruction of records: (1) the division of office services and the departments and agencies involved shall establish schedules governing disposal of records. Such schedules shall become effective upon approval by the administrative board; (2) in accordance with the schedules established as provided above, the division shall annually or oftener submit a list of proposed records to be destroyed or disposed of to the secretary of the Michigan historical commission, who shall report in writing within 30 days to the division of office services on each of the lists submitted, and may disapprove the destruction or disposal of any or all records on said list when such records are deemed by him to possess sufficient historical value to warrant their continued retention and preservation; (3) upon receipt of the written report as provided above, the division of office services shall transfer to the Michigan historical commission all records deemed by its secretary to have historical value; (4) the division of office services shall submit a list of the records not so transferred to the state administrative board which shall approve or disapprove of this disposal or destruction. The division of office services may proceed forthwith to destroy or otherwise dispose of all records whose destruction or disposal is approved by the state administrative board; (5) the division of office services may from time to time prepare lists of records recommended for disposal or destruction in those cases where it is not possible or practicable to establish schedules governing records disposal, or where agreement on destruction or disposal cannot be reached with the appropriate agency head. Action on said lists and disposal or destruction, or retention and preservation of the records on said lists shall be undertaken in accordance with the procedures outlined in this section.

HISTORY: Add. 1952, p. 231, Act 178, Eff. Sep. 18.

CITED IN OTHER SECTIONS: The above section is cited in §§ 600.2137, 691.1101, and 750.491.

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18.13d Audit of state agencies by auditor general; information to be included.

Sec. 13d. The auditor general, in the audit of the various state agencies by his office, shall include the following information: (1) compliance with records disposal instructions and transfer agreements in order to reduce filing space and equipment required to house records; (2) the date when records were last reviewed for transfer or disposal; (3) revisions required in scheduled transfer and disposal dates.

Nothing in this act shall be construed as amending, repealing, or in anywise affecting the provisions of Act No. 7 of the Public Acts of 1941, as amended, being sections 691.661 and 691.662 of the Compiled Laws of 1948.

HISTORY: Add. 1952, p. 231, Act 178, Eff. Sep. 18.

18.14 Building engineering and management division; transfer of powers, duties and functions of state capitol buildings and grounds commission thereto, subject to approval of state building commission.

Sec. 14. The authority and duty conferred by law upon the state capitol buildings and grounds commission to prepare a master plan for the development of state buildings and grounds in the city of Lansing; to change the master plan from time to time as circumstances warrant; to report to the legislature at appropriate intervals the needs of the building program, in keeping with the master plan; to appoint the requisite architects, landscape architects and other employees to carry out the foregoing and to incur other necessary expenses within the limits of the sums appropriated by the legislature, is hereby transferred to and vested in the building engineering and management division: Provided, That the foregoing authority and duties conferred upon the division shall be exercised subject to the advice of the state building commission as established by this act.

The authority and duty conferred by law upon the state office building commission to provide for and supervise the remodeling of the state capitol; to prepare and submit to the legislature a plan and specifications for the construction and equipping of a state office building; to select an architect or architects to supervise construction according to plans approved by the legislature; to employ the necessary assistants to carry out the foregoing and to incur all necessary expenses within the limits of the sums appropriated by the legislature, is hereby transferred to and vested in the building engineering and management division: Provided, That the foregoing authority and duties conferred upon the division shall be exercised subject to the advice of the state building commission as established by this act.

HISTORY: CL 1948, 18.14.

STATE OFFICE BUILDING COMMISSION: See Compilers' § 17.201 et seq.

18.14a Control zone plan; capitol area.

Sec. 14a. (1) The building division, bureau of the budget, in preparing a master plan for the development of state buildings and grounds in the city of Lansing, pursuant to the authority of this act, shall prepare a control zone plan for the area bounded by I-496, Bartlett extended, Shiawassee and Capitol avenues surrounding the present and contemplated location of the capitol complex according to the master plan.

(2) The control zone plan shall contain detailed descriptions concerning the type, size, height and use of structures which may be constructed or not constructed within the control zone. As used in this section "structure" means any object constructed or installed, including but without limitations, buildings, towers, smokestacks and overhead transmission lines.

(3) The division shall consult with the authorities of the city of Lansing in preparing the control zone plan and shall incorporate therein the applicable provisions of the coordinated plan—central city for the area as approved by the Lansing city council on

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December 4, 1967. After certification of the control zone plan by the division, revisions thereto shall be valid only upon approval by both the division and the Lansing planning board.

HISTORY: Add. 1970, p. 174, Act 76, Imd. Eff. Jul. 16.

18.15 State building commission, creation; membership, terms, compensation, expenses, assistants; state capitol buildings and grounds commission and state office building commission, abolition.

Sec. 15. A state building commission is hereby created to consult with and advise the building engineering and management division in its execution of the authority and duties specified in section 14. The state building commission shall consist of the mayor of the city of Lansing as an ex-officio member, 2 members to be appointed by the speaker of the house of representatives, 2 members to be appointed by the president of the senate, and 4 members to be appointed by the governor. The terms of the appointed members of the state building commission shall expire with the terms of the respective officers making the appointments. Members of the commission shall serve without compensation, but shall be entitled to the actual and necessary traveling and other expenses incurred in the performance of their official duties. The director of the building engineering and management division shall serve as secretary of the commission and shall furnish the commission with such assistants as it may require to carry out its advisory duties.

The state capitol buildings and grounds commission and the state office building commission are hereby abolished.

HISTORY: CL 1948, 18.15.

CITED IN OTHER SECTIONS: The above section is cited in § 16.204.

18.16 Department of administration; appropriations.

Sec. 16. Appropriations provided for any of the functions herein assigned and transferred to the department for the fiscal year ending June 30, 1949, or prior years, are hereby transferred to and made available for the department. There is hereby appropriated from the general fund for the fiscal year 1948-1949 the sum of $12,000.00 for the salary of the controller and $35,000.00 for other expenses, personal service included.

HISTORY: CL 1948, 18.16.

18.17 Repealed. 1963, p. 162, Act 116, Imd. Eff. May 10.

Section authorized department of administration to apply for and accept federal grants for planning assistance to local units.

Act 53, 1952, p. 55; Imd. Eff. Apr. 3.

AN ACT to provide for annual rental charges to certain agencies occupying state owned or leased office buildings; and to prescribe the powers and duties of the state department of administration with respect thereto. Am. 1955, p. 307, Act 205, Imd. Eff. Jun. 17.

The People of the State of Michigan enact:

18.101 Rental value of state-owned or leased office buildings; annual determination.

Sec. 1. The department of administration is hereby authorized and directed to determine annually the prevailing rental value of all state owned or leased office build-

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ings and other structures occupied by state, federal or other agencies for office purposes, exclusive of state institutions, subject to approval of the state administrative board.

HISTORY: New 1952, p. 56, Act 53, Imd. Eff. Apr. 3;—Am. 1955, p. 307, Act 205, Imd. Eff. Jun. 17.

18.102 Government agencies to pay rent and exceptions, annual determination; rental value of Boulevard building; appropriations to liquidate rental obligations for Stevens T. Mason building and other buildings.

Sec. 2. The legislature shall annually determine which state, federal or other agencies, occupying state owned or leased buildings for office purposes, shall be charged an annual rental based on rates determined according to section 1, and shall annually appropriate for such rental charges for regulatory agencies, boards and commissions supported by fees as provided by law: Provided, That space occupied by the executive office, the legislature and the supreme court shall be exempt from these charges: Provided further, That rentals for occupancy of the Boulevard building in the city of Detroit shall be set in accordance with the provisions of Act No. 9 of the Public Acts of 1947, as amended, being sections 17.301 and 17.302 of the Compiled Laws of 1948: Provided further, That the legislature shall appropriate annually from the several state funds sufficient amounts to liquidate rental obligations incurred under the lease agreements applicable to the Stevens T. Mason building and such other buildings as the legislature shall hereafter authorize the construction of.

HISTORY: New 1952, p. 56, Act 53, Imd. Eff. Apr. 3;—Am. 1955, p. 307, Act 205, Imd. Eff. Jun. 17.

18.103 Accounting division; appropriations as to rent.

Sec. 3. The accounting division, department of administration, shall charge to such appropriations for rentals as the legislature may provide amounts equivalent to the rental value of the space occupied by the agencies to whom such appropriations are made and credit all proceeds to the general fund of the state.

HISTORY: New 1952, p. 56, Act 53, Imd. Eff. Apr. 3;—Am. 1955, p. 308, Act 205, Imd. Eff. Jun. 17.

18.104 Rental charges included in budget estimates for state agencies.

Sec. 4. Budget estimates for state agencies for fiscal year 1953-54, and each successive year, shall include amounts sufficient to cover rental charges to be made under the provisions of this act.

HISTORY: New 1952, p. 56, Act 53, Imd. Eff. Apr. 3.

Act 154, 1958, p. 167; Eff. Sep. 13.

AN ACT to regulate the travel and other expenses of officers and employees of state departments and agencies incurred in the performance of their official duties and for which reimbursement is claimed from public funds, and to exempt certain officers and employees therefrom.

The People of the State of Michigan enact:

18.201 State officers and employees, reimbursement from public funds for travel and other expenses.

Sec. 1. Notwithstanding the provisions of any other act, all travel and other expenses of officers and employees of state departments and agencies incurred in the performance of their official duties and for which reimbursement is claimed from pub-

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lic funds shall be subject to and limited by the terms and provisions of the travel regulations promulgated by the department of administration pursuant to the authorization contained in section 4 of Act No. 51 of the Public Acts of the First Extra Session of 1948, as amended, being section 18.4 of the Compiled Laws of 1948.

HISTORY: New 1958, p. 167, Act 154, Eff. Sep. 13.

18.202 State officers and employees, reimbursement from public funds for expenses, exceptions.

Sec. 2. The provisions of this act shall not apply to the following:

(a) Members of the legislature and employees.

(b) Courts of record and employees.

(c) Elected officials and their appointed deputies who are not members of the civil service system.

(d) Members of boards and commissions not serving on a full-time salary basis.

HISTORY: New 1958, p. 167, Act 154, Eff. Sep. 13.

Act 78, 1969, p. 162; Imd. Eff. Jul. 21.

AN ACT to authorize the commerce department to make and regulate travel expense advances to its state employees whose duties require them to travel on state business.

The People of the State of Michigan enact:

18.211 Commerce department employees; advance of travel expenses; amount, records.

Sec. 1. The commerce department, subject to the approval of its director, may advance travel expenses out of imprest cash funds to its employees, whose duties require them to travel regularly on state business, and to its other employees whose duties require special trips involving travel expenses of $100.00 or more. Each approved advance is to be in the nature of a revolving fund and of such size, in the judgment of the department's director or his delegate, as to fit the need of the individual employee so as to minimize the amount of his personal funds to be expended for state business. Each advance shall be recorded as an accounts receivable charge due to the state from each individual employee and kept as a permanent record showing the advances outstanding, the amounts and to whom the advances were made.

HISTORY: New 1969, p. 162, Act 78, Imd. Eff. Jul. 21.

18.212 Commerce department employees, repayment of advance; lien.

Sec. 2. On demand, with or without cause, by the department's director or his delegate, or on termination of the need for the advance, or on extended leave or termination of employment, the advance shall be repaid immediately by the employee to the state and failure to do so places a lien in favor of the state on any property due to or owned by the employee, including wages and travel expense reimbursement otherwise due to him by the state, until the state is repaid in full for the advance.

HISTORY: New 1969, p. 162, Act 78, Imd. Eff. Jul. 21.

Act 139, 1961, p. 189; Eff. Sep. 8.

AN ACT to designate the department of administration as the official state agency to participate in and administer the federal surplus property program; to prescribe the agency's powers, duties and functions; and to appropriate funds received from the sale of such property.

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The People of the State of Michigan enact:

18.251 Federal surplus property program, to be administered by department of administration as state agency.

Sec. 1. The department of administration is hereby designated as the state agency to participate in and administer federal surplus property made available under the provisions of the federal property and administrative services act of 1949, Public Law 152, 81st Congress First Session, as amended, hereinafter referred to as the "federal act". Any such property shall be administered under the provisions of this act and not in accordance with the provisions of Act No. 12 of the Public Acts of the First Extra Session of 1942, as amended, being sections 3.541 and 3.542 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 189, Act 139, Eff. Sep. 8.

18.252 Federal surplus property; receipt, warehousing, and distribution by department of administration.

Sec. 2. The department may:

(a) Receive from the United States under and in conformance with the provisions of the federal act such personal property, including any equipment, materials, books or other supplies as shall have been determined to be surplus property and as may be usable and necessary within this state for purposes of education, public health or civil defense, or for research for any such purpose or for any other purpose which may be authorized by federal law.

(b) Warehouse the property.

(c) Distribute the property within the state to tax supported medical institutions, hospitals, clinics, health centers, schools, colleges and universities, and to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which have been held exempt from taxation under section 501 (c) (3) of the United States internal revenue code of 1954, as amended; to civil defense organizations established pursuant to state law, and to such other types of institutions or activities as are eligible under federal law to acquire the property.

HISTORY: New 1961, p. 189, Act 139, Eff. Sep. 8.

18.253 Federal surplus property; applications for acquisition; recommendations of department of administration.

Sec. 3. The department may receive applications from eligible institutions for the acquisition of federal surplus real property, investigate the same, make recommendations regarding the need of the applicant for the property, the merits of its proposed program of utilization, the suitability of the property for such purposes, and otherwise assist in the processing of applications for acquisition of real and related personal property of the United States under the provisions of the federal act.

HISTORY: New 1961, p. 189, Act 139, Eff. Sep. 8.

18.254 Federal surplus property; permissible action by department of administration.

Sec. 4. The department may make such certifications, take such action, make such expenditures, require such reports and make such investigations as may be required by law or regulation of the United States in connection with the disposal of real property, and the receipt, warehousing and distribution of personal property received by the department from the United States. The department may enter into contracts, agreements and undertakings for and in the name of the state, including cooperative agreements with any federal agencies providing for utilization by and exchange between them, without reimbursement, of the property, facilities, personnel and services of

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each by the other, and agreements with other state agencies for surplus property and with associations or groups of state agencies.

HISTORY: New 1961, p. 190, Act 139, Eff. Sep. 8.

18.255 Federal surplus property; department of administration as clearing house of information.

Sec. 5. The department may act as a clearing house of information for the public and private nonprofit institutions, organizations and agencies referred to in section 2 of this act and any other institutions eligible to acquire federal surplus real property, to locate both real and personal property available for acquisition from the United States, to ascertain the terms and conditions under which the property may be obtained, to receive requests from the institutions, organizations and agencies and to transmit to them all available information in reference to the property, and to aid and assist the institutions, organizations and agencies in every way possible in the consummation of acquisitions or transactions.

HISTORY: New 1961, p. 190, Act 139, Eff. Sep. 8.

18.256 Federal surplus property; state plan of operation and reports to be filed by department of administration.

Sec. 6. The department in the administration of this act, shall cooperate to the fullest extent consistent with the provisions of the federal act, with the departments or agencies of the federal government and shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standards prescribed in accordance with the federal act, and make such reports in such form and containing such information as the federal government or any of its departments or agencies from time to time may lawfully require. It shall comply with the laws of the federal government and the rules and regulations of any of the departments or agencies of the federal government governing the allocation, transfer and use of, or accounting for, property donable or donated to eligible donees in this state.

HISTORY: New 1961, p. 190, Act 139, Eff. Sep. 8.

18.257 Federal surplus property; charges to eligible recipients for handling and transfer.

Sec. 7. The department may make charges to the eligible recipients for the acquisition, warehousing, distribution or transfer of any property of the United States. The charges shall be reasonably related to the costs of care and handling in respect to the acquisition, receipt, warehousing, distribution or transfer of surplus personal property by the department and, in the case of real property, shall be limited to the reasonable administrative costs of the department incurred in effecting transfer.

HISTORY: New 1961, p. 190, Act 139, Eff. Sep. 8.

18.258 Federal surplus property; accounting of charges; nonreversion of balance.

Sec. 8. All moneys received by the department in payment of such charges shall be credited to a restricted account in the general fund and are hereby appropriated to the department to defray the cost of the administration of the provisions of this act. Any balance remaining at the end of any fiscal year shall not revert to the general fund but shall continue to be available for the purposes authorized in this act.

HISTORY: New 1961, p. 190, Act 139, Eff. Sep. 8.

18.259 Federal surplus property; rules and regulations for utilization.

Sec. 9. The department shall promulgate rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948 and take such other action as is deemed necessary and suitable in the administration of this act, to assure maximum utilization, within the state,

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of property distributed under this act to eligible health, educational, and civil defense institutions and organizations and to such other types of institutions or activities as are eligible under the federal law.

HISTORY: New 1961, p. 190, Act 139, Eff. Sep. 8.

18.260 Federal surplus property; bonds for employees handling same.

Sec. 10. The controller of the department of administration, with the approval of the state administrative board, may bond any person in the employ of the department of administration handling moneys, signing checks, or receiving or distributing property from the United States under authority of this act.

HISTORY: New 1961, p. 191, Act 139, Eff. Sep. 8.

18.261 Federal surplus property; obligation of state by department prohibited; warehouses.

Sec. 11. Except to the extent expressly provided in this act, nothing contained in this act shall authorize the department to obligate the state. Nothing contained in this act shall authorize the department to construct, acquire, change the location or discontinue the use of any warehouse until approved by the legislature in the annual capital outlay appropriation act.

HISTORY: New 1961, p. 191, Act 139, Eff. Sep. 8.

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CHAPTER 19. BOARD OF STATE AUDITORS

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19.182 Accounts; charging, payment.

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BOARD OF STATE AUDITORS.

19.44 Board of state auditors, composition; powers, duties and functions; settlement of claims; records; witnesses, compensation.

Sec. 44. The secretary of state, state treasurer, and commissioner of the state land office shall constitute a board of state auditors, and as such they shall have power, and it shall be their duty annually, and at any other time in their discretion, to enter into a full settlement and final adjustment with every officer and agent of the state, of all debits, credits, claims and demands of whatsoever description, between such officer or agent and this state, and it shall also be their duty to examine, adjust and settle all other claims and demands against this state which may be presented by any other person or persons, the settlement of which is not otherwise already provided by law and if

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such demand is a default judgment against the state, the board shall have the right to allow only the amount the state would have actually owed if default had not been made, but such board shall not allow and audit any claims against the state, unless the same shall be established by competent testimony; and said board shall keep a record of its proceedings, which shall contain each claim presented and its items, an abstract of the evidence taken, the amount adjusted and settled in favor of the person or persons presenting the claims, or in favor of the state; and any member of said board shall have power to administer oaths to any person or persons presenting claims, or to witnesses; to examine the person or persons under oath, to issue subpoenas to any part of the state against witnesses; and if any witness or witnesses fail to appear in pursuance thereof, and the fees provided herein shall have been paid or tendered, to issue attachments to compel their attendance; to set off any legal or equitable claim against such person or persons in favor of the state, upon proof of the same, and to adjourn from time to time: Provided, however, That every witness shall be entitled to 1 dollar a day while in attendance before the board, and 6 cents a mile in coming to the place of attendance, to be paid by the party who procures said witnesses: And provided further, That in all settlements with the state treasurer, the auditor general shall be a member of said board for that purpose, to the exclusion of the treasurer.

HISTORY: Am. 1848, p. 9, Act 12, Imd. Eff. Jan. 26;—Am. 1851, p. 173, Act 142, Imd. Eff. April 7;—CL 1857, 205;—CL 1871, 278;—How. 307;—CL 1897, 118;—CL 1915, 148;—CL 1929, 264;—Am. 1935, p. 349, Act 215, Eff. Sept. 21;—CL 1948, 19.44.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

COMMISSIONER OF STATE LAND OFFICE: By Act 270 of 1913, being Compilers' § 322.221, the office of commissioner of the state land office was abolished.

19.44a Board of state auditors, appearance of attorney general; notice.

Sec. 2. It shall be the duty of the attorney general to appear in behalf of the state, before the board of state auditors when they shall sit to audit claims against the state, and to that end said board shall give said attorney general timely notice of the time and place of their meeting to audit such claims.

HISTORY: CL 1857, 210;—CL 1871, 285;—How. 313;—CL 1897, 113;—CL 1915, 141;—CL 1929, 265;—CL 1948, 19.44a.

The title of Act 12 of 1848 of which this is Sec. 2 reads as follows: "An act to amend section forty-four, (44) of chapter twelve, (12,) of the Revised Statutes of 1846." See also Compilers' § 19.71.

19.45 State officers, annual settlement of accounts with board; notice.

Sec. 45. The annual settlement of the accounts of the several receiving or disbursing officers or agents of this state, before the board of state auditors, shall be had as soon after the first [1st] day of December in each year, as the accounts of said officers on the books of the auditor general, can be closed for the preceding fiscal year; of which time the auditor general shall give notice to the treasurer, who shall thereupon require said several officers and agents to appear before said board at his office, on some day to be designated by him, of which time he shall also notify the other members of the board.

HISTORY: CL 1857, 206;—CL 1871, 279;—How. 308;—CL 1897, 119;—CL 1915, 149;—CL 1929, 266;—CL 1948, 19.45.

The above section as originally enacted was numbered section 44.

19.46 State officers, final settlement of accounts with board.

Sec. 46. As soon as practicable after the expiration of the official term or resignation of any such receiving or disbursing officer or agent, the secretary of state shall give notice to the board of state auditors and to such officer or agent to meet at the office of the state treasurer for the purpose of making a full and final settlement of the accounts of such officer or agent; and the said board shall proceed thereon in the same manner as is provided in relation to the annual settlement of said account.

HISTORY: Am. 1851, p. 174, Act 142, Imd. Eff. April 7;—CL 1857, 207;—CL 1871, 280;—How. 309;—CL 1897, 120;—CL 1915, 150;—CL 1929, 267;—CL 1948, 19.46.

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19.47 State indebtedness, payment; state as creditor.

Sec. 47. If, upon the allowance of any claim, or upon a balance being struck on any settlement made in pursuance of this chapter, it shall appear that the state is indebted to the party with whom such settlement is made or to whom such claim shall be allowed, he shall be entitled to a warrant drawn by the auditor general upon the state treasurer therefor forthwith, but if it shall appear that such party is indebted to the state, said board shall demand immediate payment of the amount due, and if for any cause such payment is not immediately made, the fact shall be entered upon the books of the treasury, and the treasurer shall give notice thereof to the auditor general, and the auditor general shall not thereafter draw any warrant in favor of such person upon the treasurer until such payment be made, and the attorney general shall proceed forthwith to collect the same, if in the opinion of the board the interests of the state require it.

HISTORY: Am. 1851, p. 174, Act 142, Imd. Eff. April 7;—CL 1857, 208;—CL 1871, 281;—How. 310;—CL 1897, 121;—CL 1915, 151;—CL 1929, 268;—CL 1948, 19.47.

19.48 Board of state auditors annual report.

Sec. 48. The board of state auditors shall submit to the legislature annually, at the commencement of its session in January, a report of their doings during the year next preceding.

HISTORY: CL 1857, 209;—CL 1871, 282;—How. 311;—CL 1897, 122;—CL 1915, 152;—CL 1929, 269;—CL 1948, 19.48.

The above section as originally enacted was numbered section 47.

Act 130, 1869, p. 227; Imd. Eff. Apr. 3.

AN ACT to provide for the sessions of the board of state auditors.

The People of the State of Michigan enact:

19.61 Time of session of board.

Sec. 1. That it shall be the duty of the board of state auditors to meet at nine o'clock, A.M. on the last Wednesday of each month, at the office of the secretary of state, and to continue in session until the business placed before said board is disposed of.

HISTORY: CL 1871, 283;—How. 312;—CL 1897, 123;—CL 1915, 153;—CL 1929, 270;—CL 1948, 19.61.

ATTORNEY-GENERAL: See Compilers' § 19.44a for his appearance before the board.

Act 29, 1848, p. 22; Imd. Eff. Feb. 2.

AN ACT to provide for the hearing of claims referred by the legislature to the board of state auditors and to compel the attendance of witnesses. Am. 1929, p. 237, Act 96, Eff. Aug. 28.

Be it enacted by the senate and house of representatives of the state of Michigan:

19.71 Hearing of claims referred by legislature; notice.

Sec. 1. That the board of state auditors upon the presentation of any claim or matter which has been or which hereafter may be referred by the legislature to them for adjustment, shall fix a time for the hearing thereof, reasonable notice of which shall be given by them to the attorney general; and they may in their discretion adjourn the hearing of any such matter from time to time.

HISTORY: CL 1857, 211;—CL 1871, 286;—How. 314;—CL 1897, 124;—CL 1915, 154;—CL 1929, 271;—CL 1948, 19.71.

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19.72 Subpoenas for witnesses.

Sec. 2. Any member of said board may issue subpoenas for witnesses, whose attendance the board may compel by attachment, and who may be sworn by any member of the board.

HISTORY: CL 1857, 212;—CL 1871, 287;—How. 315;—CL 1897, 125;—CL 1915, 155;—Am. 1929, p. 237, Act 96, Eff. Aug. 28;—CL 1929, 272;—CL 1948, 19.72.

J.R. 36, 1848, p. 457; Imd. Eff. Mar. 27.

JOINT RESOLUTION relative to costs before the board of state auditors.

19.81 Certificate of costs incurred for witnesses, contents; payment.

Resolved by the senate and house of representatives of the state of Michigan—That in the investigation of claims heretofore referred, or hereafter to be referred to the board of state auditors, all proper and reasonable costs incurred on the part of the state for fees to witnesses in procuring their attendance before the board, or in taking their depositions, shall be audited and allowed by said board, who shall certify to the auditor general the amount allowed, if any, in the examination of each claim, specifying in said certificate the persons to whom such allowances are made and the sum allowed to each person, for which the auditor general shall draw his warrant upon the treasury.

HISTORY: CL 1857, 213;—CL 1871, 288;—How. 316;—CL 1897, 126;—CL 1915, 156;—CL 1929, 273;—CL 1948, 19.81.

Act 119, 1855, p. 270; Imd. Eff. Feb. 12.

AN ACT making appropriation for the payment of warrants drawn by the board of state auditors.

The People of the State of Michigan enact:

19.91 Appropriations from general fund for allowed claims.

Sec. 1. That there be appropriated from the general fund such sums as may be necessary to pay warrants that may be drawn upon claims allowed by the board of state auditors.

HISTORY: CL 1857, 214;—CL 1871, 289;—How. 317;—CL 1897, 127;—CL 1915, 157;—CL 1929, 274;—CL 1948, 19.91.

Act 90, 1903, p. 115; Eff. Sep. 17.

AN ACT to regulate the making up of reports of claims examined and adjusted by the board of state auditors, and to repeal joint resolution number 24 of 1869, being section 128 of the Compiled Laws of 1897. Am. 1929, p. 233, Act 97, Eff. Aug. 28.

The People of the State of Michigan enact:

19.101 Reports of claims examined and adjusted; items.

Sec. 1. The board of state auditors in hereafter making up their report of claims examined and adjusted by them, shall so make up their report as to show separately:

First, The amount allowed to each of the state offices or officers, state boards, and judiciary, for stationery and other general allowances;

Second, The amount allowed for all printing for the senate, house of representatives, for each of the state offices or officers, the state boards, judiciary, and all other printing not included above;

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Third, The amount allowed for binding;

Fourth, And generally they shall so arrange their report as to show in the best possible manner, the expense of each department of the government, whose claims they allow;

Fifth, It shall not be necessary in making up reports of claims examined and adjusted to state claims at full length in any case in which the substance of the claims can be stated in tabular form.

HISTORY: CL 1871, 284;—How. 318;—CL 1897, 128;—CL 1915, 158; CL 1929, 275;—CL 1948, 19.101.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 159;—Am. 1929, p. 233, Act 97, Eff. Aug. 28;—CL 1929, 276;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.
ACT REPEALED: J. R. 24, 1869, CL 1897, 128.

Act 23, 1917, p. 48; Eff. Aug. 10.

AN ACT to define the powers and duties of the Board of State Auditors in regard to assigning, equipping and maintaining quarters for the various State departments.

The People of the State of Michigan enact:

19.121 Supervision of state capitol and state office buildings; lease of outside quarters for state departments.

Sec. 1. The board of state auditors shall have charge of and general supervision over the state capitol and office buildings belonging to the state, located in the city of Lansing with full power to properly equip, maintain and keep the same in repair. When necessary said board may make temporary leases of outside quarters in the name of the state. Said board shall designate the various departments which shall occupy and have authority to transfer them to the quarters assigned to them in said buildings so owned or leased by the state.

HISTORY: CL 1929, 277;—CL 1948, 19.121.

STATE OFFICE BUILDING: Under Act 176 of 1917 and Act 83 of 1921 the board of state auditors was authorized to purchase certain lands in Lansing which now comprise the site of the state office building.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

Act 173, 1968, p. 266; Eff. Nov. 15.

AN ACT naming certain state buildings.

The People of the State of Michigan enact:

19.131 State highways and state treasury buildings.

Sec. 1. Upon completion, the department of state highways building in the capitol complex, Lansing, Michigan, shall be designated and known as the "state highways building" and the building occupied by the state treasury department shall be designated and known as the "state treasury building".

HISTORY: New 1968, p. 266, Act 173, Eff. Nov. 15.

Act 80, 1905, p. 107; Eff. Sep. 16.

AN ACT to authorize and empower the board of state auditors, the board of control, board of trustees or governing board of certain state institutions, to make, prescribe and enforce rules and regulations for the care, order and preservation of buildings or property dedicated and appropriated to the public use and the conduct of those coming upon the property thereof; to prescribe penalties for a violation thereof and to repeal all acts or parts of acts inconsistent with the provisions of this act.

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The People of the State of Michigan enact:

19.141 State buildings, authority of boards to prescribe rules and regulations for maintenance, preservation and protection.

Sec. 1. The board of state auditors, the board of trustees of the boys' vocational school, the state board of education, the board of guardians of the girls' training school, the board of control of the Michigan college of mines and technology, the board of trustees of the Pontiac state hospital, the board of trustees of the Kalamazoo state hospital, the board of trustees of the Traverse City state hospital, the board of trustees of the Ionia state hospital, the board of trustees of the Newberry state hospital, the board of control of the state prison at Jackson, the board of control of the state house of correction and branch prison of the upper peninsula, the board of control of the Michigan reformatory at Ionia, the board of trustees of the Michigan school for the deaf, the board of control of the Michigan school for the blind, the board of managers of the Michigan soldiers' home, the board of control of the Michigan home for feebleminded and epileptic, the board of trustees of the Michigan employment institution for the blind, the board of control of the state public school, the state board of agriculture, the Michigan state agricultural society, the board of regents of the university of Michigan, the state department of agriculture and the board of managers of state fairs, and the board of trustees of the Michigan state sanatorium for tuberculosis, shall have authority to make and prescribe rules and regulations for the care, preservation and protection of buildings and property dedicated and appropriated to the public use, over which they have jurisdiction or power of control and the conduct of those coming upon the property thereof, which may be necessary for the maintenance of good order and the protection of said state property; and shall have authority to enforce such rules and regulations, and empower one or more persons with the authority prescribed in this act, and cause any person or persons found guilty of a violation thereof to be punished in the manner hereinafter prescribed.

HISTORY: Am. 1907, p. 397, Act 302, Imd. Eff. June 27;—CL 1915, 1965;—Am. 1927, p. 506, Act 262, Imd. Eff. May 24;—CL 1929, 447;—CL 1948, 19.141.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

19.142 State buildings, maintenance; violation of regulations, misdemeanors; penalty.

Sec. 2. Any person who shall wilfully cut, peel, or otherwise injure or destroy any tree or shrub standing on any property dedicated or appropriated to the public use and within the control or under the jurisdiction of any of the said above named boards; who shall carry, draw, leave or deposit within or upon said property any filth, rubbish or garbage; who shall efface any mark or inscription of any kind whatsoever or mutilate or destroy any building, machine, or appliance, fence or hedge of any kind; who shall enter, hunt or trespass upon any part or portion of property or skate upon, or fish, in any manner in any pond, brook or stream, the use of which is forbidden to the general public, and relative to which there are signs or notices to that effect; who shall be guilty of any boisterous or disorderly conduct upon the premises thereof, annoy, harass, assault or disturb any inmate or person cared for or under the control of said boards; who shall without authority or permission unlock or open any gate, window or door or enter any room, hall, ward or yard or other portion of any institution in which inmates or persons are detained under state control; who shall create, cause or attempt to create any disturbance or openly and wilfully refuse to conform to such rules, regulations, and orders as any of the said boards may prescribe, shall be deemed

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guilty of a misdemeanor, and upon conviction thereof may be fined not more than 50 dollars or by imprisonment in the county jail of the county where such offense is committed for a period of not less than 10 days nor more than 60 days, or both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1915, 1966;—CL 1929, 448;—CL 1948, 19.142.

19.143 State buildings, maintenance; authority of police and other officers; arrest, complaint, hearing.

Sec. 3. Every person duly appointed or chosen by any of the said boards to act in the capacity of superintendent, policeman, watchman, marshal, deputy marshal, guard or attendant, shall be vested with the general authority of sheriffs, relative to the arrest and custody of offenders against rules and regulations prescribed by said boards or any provisions of this act, and shall have authority to apprehend and arrest, and it shall be the duty of such officer or appointee to arrest without warrant any person found violating any rules which shall have been made or prescribed by the respective board relative to trespasses upon property, good order, the preservation of property, or the mutilation or destruction or injury to property in any manner whatsoever. It shall be the duty of said officers or appointees to make complaint against offenders of any provision of this act, or the rules and regulations of their respective board, before any justice of the peace or police justice of the township or city, or any justice of the peace of the county within the limits of which the institution is located, and any justice of the peace, police justice or judge of the recorder's court, before whom complaint is made, is hereby authorized to take cognizance, hear, try, and determine such matters, and pass sentence upon offenders in accordance with law.

HISTORY: CL 1915, 1967;—CL 1929, 449;—CL 1948, 19.143.

19.144 State buildings, maintenance; complaints by board members.

Sec. 4. The members of each of the above named boards and all other persons are also hereby given authority to make complaint, before such justice of the peace or police justice as is referred to in section 3 of this act, against any person or persons who it is believed has wilfully violated any law, rule or regulation pertaining to the property or building over which they have any jurisdiction or power of control, and the proceedings pertaining to the arrest and punishment of offenders shall be in the manner hereinbefore prescribed.

HISTORY: CL 1915, 1968;—CL 1929, 450;—CL 1948, 19.144.

19.145 State buildings, maintenance; posting of rules and regulations; duty of prosecuting attorney.

Sec. 5. It shall be the duty of said boards to have all rules and regulations which may be made or prescribed, entered in convenient form, in a record book kept in the respective office for that purpose and posted in at least 3 conspicuous places on said premises. It shall be the duty of the prosecuting attorney of the county in which the offense is committed to prosecute offenders against the provisions of this act or any rule or regulation made or prescribed by said boards, under the authority of this act.

HISTORY: CL 1915, 1969;—CL 1929, 451;—CL 1948, 19.145.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1915, 1970;—CL 1929, 452;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

19.151-19.157 Repealed. 1967, p. 166, Act 139, Eff. Nov. 2.

Sections related to bids for stationery, printing and binding contracts, audit, payment of contract demands, and suits for performance.

Act 135, 1903, p. 167; Eff. Sep. 17.

AN ACT to regulate the ordering of stationery, paper, printing and binding under state contracts.

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The People of the State of Michigan enact:

19.161 Board of state auditors, authority to allow contracts for stationery and paper for state departments.

Sec. 1. The board of state auditors, in letting contracts for furnishing stationery and paper under the conditions of an act approved March twenty-fifth, 1903, as amended, shall include all such stationery and paper as in their judgment may be needed by the several state departments of the state of Michigan. All of such paper and stationery which the necessities of state departments require to be purchased in large quantities, shall be so purchased by the board of state auditors, and kept in their custody and when required for any purpose by any of said departments, shall be furnished by said board as provided in section 2 of this act.

HISTORY: CL 1915, 810;—Am. 1919, p. 199, Act 111, Eff. Aug. 14;—CL 1929, 472;—CL 1948, 19.161.
NOTE: The act of March 25, 1903, above referred to, is Compilers' §§ 19.151 to 19.157, which was repealed.
TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

19.162 Receipt of requisitions for stationery, paper, printing and binding; filling orders; records.

Sec. 2. It shall hereafter be the duty of the chief or head of each state department, or his deputy, or any employe authorized by him, to submit to the board of state auditors any and all requisitions for stationery and paper and the printing and binding thereof, whether for the current use of said department or for the printing and binding of such reports as may be required by law to be issued, and requisitions for all printing and binding for such departments, and said board shall thereupon furnish to the state printer or binder with whom the state may at such time have a contract, the necessary orders for doing such work, together with such stationery and paper as may be required therefor; such work when completed to be returned to such board, whose duty it shall be to keep a record thereof, and by it delivered to the department entitled thereto.

HISTORY: CL 1915, 811;—Am. 1919, p. 200, Act 111, Eff. Aug. 14;—CL 1929, 473;—CL 1948, 19.162.

19.163 Audit of bills for stationery, paper, printing and binding for state departments.

Sec. 3. The said board of state auditors shall audit and allow only such bills for stationery, for paper, or for printing and binding for any of said state departments as is furnished in accordance with the provisions of this act.

HISTORY: CL 1915, 812;—Am. 1919, p. 200, Act 111, Eff. Aug. 14;—CL 1929, 474;—CL 1948, 19.163.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 813;—CL 1929, 475;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 155, 1903, p. 201; Imd. Eff. May 27.

AN ACT to provide for the letting of contracts by the board of state auditors for heating the capitol building and the state building situated at the corner of Allegan street and Washington avenue, Lansing.

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The People of the State of Michigan enact:

19.171 Authority to make contracts for heating capitol building and state building.

Sec. 1. The board of state auditors are hereby empowered and directed to make such contract or contracts as may be necessary for heating the capitol building and the state building, situated at the corner of Allegan street and Washington avenue, Lansing, Michigan, for a term of 1 or more years, not exceeding 2 years, as may be considered by the board of state auditors for the best interest of the state.

HISTORY: CL 1915, 814;—CL 1929, 476;—CL 1948, 19.171.

See Act 12 of 1903, being Compilers' §§ 19.151 et seq., which was repealed.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

19.172 Method of heating capitol building and state building.

Sec. 2. The board of state auditors are hereby authorized to make contracts for the purchase of coal to be used in the furnaces of the capitol building and in stoves in the state building referred to in section 1 of this act, for heating such buildings, or to make contract or contracts for heating either or both of such buildings by means of steam conveyed thereto in underground pipes.

HISTORY: CL 1915, 815;—CL 1929, 477;—CL 1948, 19.172.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1915, 816;—CL 1929, 478;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 22, 1849, p. 16; Imd. Eff. Feb. 2.

AN ACT to provide for the payment for wood, lights and other incidental expenses of the legislature and state offices.

Be it enacted by the senate and house of representatives of the state of Michigan:

19.181 Authority to contract for heating, lighting, furniture, repairs and expenses of state offices in old capitol; and to procure plans and estimates for new capitol.

Sec. 1. The board of state auditors are hereby authorized to contract for or purchase wood, lights and necessary furniture for the legislative halls and state offices, from time to time, and to audit and allow the accounts for the same, and accounts for making necessary repairs on the capitol, and the house and grounds adjoining belonging to the state, and also, for a porter to take charge of the state offices in the capitol, and for transportation of packages to and from the state offices; for the payment of which the state would be liable, and for other necessary incidental expenses of said offices. And also, for the improvement of capitol block, by planting trees and shrubbery upon said block; and also, for all other necessary improvements for the enhancement of the value of the property of the state at Lansing; and also, to procure plans, drawings and estimates for a state capitol to be submitted to the legislature of 1859.

HISTORY: Am. 1857, p. 443, Act 174, Eff. May 19;—CL 1857, 215;—CL 1871, 290;—How. 344;—CL 1897, 1538;—CL 1915, 817;—CL 1929, 479;—CL 1948, 19.181.

19.182 Accounts; charging, payment.

Sec. 2. Such accounts, when so audited and allowed, shall be charged by the auditor general to the appropriate accounts, and upon his warrant, shall be paid from the state treasury, from moneys belonging to the respective funds on which the warrant shall be so drawn.

HISTORY: CL 1857, 216;—CL 1871, 291;—How. 345;—CL 1897, 1539;—CL 1915, 818;—CL 1929, 480;—CL 1948, 19.182.

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CHAPTER 21. BUDGET AND STATE ACCOUNTS

STATE BUDGET

Act 98 of 1919

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Act 260 of 1947

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Act 98, 1919, p. 165; Imd. Eff. Apr. 19.

AN ACT to establish a budget system for the several activities of the state government; to prescribe the powers and duties of the state administrative board in relation thereto; to create the office of budget director and prescribe his powers and duties; to provide that said director shall be furnished with information by the several state departments, institutions, boards, commissions and offices relating to their financial condition and needs, receipts and expenditures, and general affairs; to regulate legislation relating to appropriations; to prescribe the manner of financing all activities of the several departments, institutions, boards, commissions and offices of the state government; to provide punishment for refusal or neglect to comply with the requirements of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act. Am. 1933, p. 280, Act 187, Imd. Eff. Jun. 28.

The People of the State of Michigan enact:

21.1 State budget system; definitions.

Sec. 1. The following terms shall be construed to mean:

Budget system—A systematic plan of ascertaining and meeting the financial needs of the several departments, institutions, boards, commissions and offices of the state government, and of the controlling state funds;

Cash receipts—All money received into the state treasury;

Revenue—All money received into the state treasury except refunds and advances;

Cash disbursements—Warrants issued by the auditor general;

Expense—Warrants issued by the auditor general except refunds and advances;

Deficiency—Lack of sufficient assets to meet liabilities.

HISTORY: CL 1929, 212;—Am. 1933, p. 280, Act 187, Imd. Eff. June 28;—CL 1948, 21.1.

NOTE: Act 193 of 1917 created the Michigan budget commission of inquiry to investigate and report upon the general financial system of the state, and to recommend legislation necessary to establish a budget system.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

21.1a Short title; state budget act.

Sec. 1a. This act shall be known and may be cited as "The state budget act."

HISTORY: Add. 1943, p. 459, Act 247, Imd. Eff. April 22;—CL 1948, 21.1a.

21.2 Budget director; appointment, term.

Sec. 2. There is hereby created the office of budget director. Said director shall be under the supervision of the governor in the exercise of the powers and duties hereinafter provided. In June, 1933, and every second year thereafter, it shall be the duty of the governor to appoint as said director a qualified elector of this state who shall be well versed in state governmental affairs. Said director shall hold his office for a period

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of two years from and after July first and shall devote his entire time to the duties of his office.

HISTORY: CL 1929, 213;—Am. 1933, p. 280, Act 187, Imd. Eff. June 28;—CL 1948, 21.2.

21.3 Budget director; salary, expenses; assistants, compensation.

Sec. 3. Said budget director shall receive such annual salary as the legislature shall appropriate together with his necessary traveling expenses which, when approved by the governor, shall be paid by the state treasurer upon warrant of the auditor general. Said director may engage the services of such expert assistants and such clerical help as shall be necessary to carry out the provisions of this act and shall fix their compensation, which compensation, when approved by the governor, shall be paid by the state treasurer upon warrant of the auditor general.

HISTORY: CL 1929, 214;—Am. 1933, p. 280, Act 187, Imd. Eff. June 28;—CL 1948, 21.3.

21.4 Budget director; information for budget, long range capital outlay needs; assistance by state agencies.

Sec. 4. Said budget director shall have the power, and he is hereby directed, to obtain from the several state departments, institutions, boards, commissions and offices, on appropriate forms prescribed by him, at such time or times as he shall designate, such information relating to their cost of operation, past expenditures and income, present financial conditions, their financial needs for the ensuing biennial fiscal period, anticipated income, their long-range capital outlay needs for at least the ensuing 5-year period arranged by them in order of priority of need, and such other information, as said director shall determine is necessary and essential to the preparation of a complete budget for presentation to the legislature. It shall be the duty of the several state institutions, departments, boards, commissions and offices to promptly comply with any and all requests for information which said budget director may make, and to render all possible assistance to said director in carrying out the requirements of this act.

HISTORY: CL 1929, 215;—Am. 1933, p. 280, Act 187, Imd. Eff. Jun. 28;—CL 1948, 21.4;—Am. 1953, p. 115, Act 116, Eff. Oct. 2.

21.5 Budget director; compilation of data, estimates of long range financial needs; hearings to review estimates; preparation of budget statements to constitute state budget.

Sec. 5. It shall be the duty of said budget director to assemble, on or before the 1st day of December, 1934, and every 2 years thereafter from the information gathered an estimate of the financial needs of the several state departments, institutions, boards, commissions and offices for the biennial fiscal period beginning on the 1st day of July thereafter, and an estimate of the long-range capital outlay needs of the same state agencies over the period of at least the succeeding 5 years. Said director shall then proceed to examine and revise the estimated financial needs submitted and before final revision shall hold hearings in relation thereto, at which hearings any executive officer of the state government, including members of boards and commissions, shall have the right to be heard on the estimates of the department, institution, board, commission or office he represents. It shall be the duty of all such officers of the state government, or their subordinates, to attend such hearings upon request of the budget director. The governor-elect shall be invited, and he is hereby authorized, to sit with said director at such hearings, and he may examine the estimates and other information in possession of said director and may make such suggestions and recommendations in relation thereto as he may deem advisable. Upon revision of said estimates the director shall prepare a statement showing the estimated amounts, both for current operation and capital outlay, required for the conduct of all state government, including departments, institutions, boards, commissions and offices and a corresponding estimate of the revenues of the state, and the sources thereof, for each year of the ensu-

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ing biennial fiscal period; and revenues for the first year of the current biennial fiscal period and also for both years of the preceding biennial fiscal period; also an estimate of the amount needed for deficiency purposes, emergency purposes, the amount needed to pay and discharge such principal and interest of the state debt as may be due, together with such other data relating to fiscal conditions as said director shall deem wise and of material value to the legislature in its consideration of the financial needs of the state government, which estimated expenditures shall not exceed estimated revenues. A separate budget statement of long-range capital outlay needs of state agencies for at least the succeeding 5 years shall be prepared by the director in such form as to indicate the nature of each capital project. When so prepared, said statements shall constitute and be known as the state budget.

HISTORY: CL 1929, 216;—Am. 1933, p. 281, Act 187, Imd. Eff. Jun. 28;—CL 1948, 21.5;—Am. 1953, p. 116, Act 116, Eff. Oct. 2.

21.5a Budget directors; preparation of estimates for biennium.

Sec. 5a. When the legislature in the regular session of any biennium shall appropriate in the general appropriation act or acts for only 1 year of the ensuing biennium, the budget director shall prepare estimates and perform all acts authorized by this act for the second year of said biennium in the same manner as required to be performed before the meeting of the legislature in the regular session.

HISTORY: Add. 1943, p. 459, Act 247, Imd. Eff. April 22;—CL 1948, 21.5a.

21.6 State budget; submission to legislature, distribution.

Sec. 6. Within 10 days after the legislature convenes in regular session, it shall be the duty of the governor to transmit to each branch of the legislature the budget herein provided accompanied by such explanations and recommendations relative thereto as he may deem necessary and advisable: Provided, That the separate budget statement of long-range capital outlay needs as prepared in accordance with section 5 of this act may be submitted as late as, but not later than, 30 days after the legislature convenes in regular session. A sufficient number of copies of the budget shall be printed to supply the press, a copy to each member of the legislature, a copy to the executive officer of each state department, a copy to each state institution, board and commission, also copies for distribution by the budget director.

HISTORY: CL 1929, 217;—Am. 1933, p. 281, Act 187, Imd. Eff. Jun. 28;—Am. 1945, p. 27, Act 30, Imd. Eff. Mar. 8;—CL 1948, 21.6;—Am. 1953, p. 116, Act 116, Eff. Oct. 2.

21.6a State budget; to include statement of available federal funds.

Sec. 6a. The budget submitted by the governor in accordance with the provisions of section 6 shall include a detailed statement of all available federal funds, if any, for each item in the budget.

HISTORY: Add. 1965, p. 388, Act 226, Imd. Eff. Jul. 16.

21.7 Budget director; investigative authority; administration of oaths, examination of witnesses, subpoenas.

Sec. 7. Said budget director shall have the authority at any time, to examine all bids, contracts, plans, specifications, blue prints, records, invoices, books, accounts and correspondence relating in any way to establishing, enlarging, altering, maintaining or operating any of the several state institutions, departments, boards, commissions and offices, and may at any time by his agents or employes enter in and upon, and examine, any building or structure used or to be used by any state institution, department, board, commission or office. Said director may investigate the general affairs of the several state institutions, departments, boards, commissions and offices at any time he may deem necessary for ascertaining facts essential to a proper administration of this act, and for the purpose of making recommendations to the legislature relating to the degree of efficiency and economy in which they are being conducted. Upon demand of the budget director, it shall be the duty of any and all officers of this state to pro-

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duce, for examination, the books and records of their respective offices, departments and institutions, answer all questions relating thereto and to render every possible assistance to the director in meeting the requirements of this section. In connection with such examinations, the budget director may compel attendance and testimony of witnesses, administer oaths, and examine such persons as deemed necessary and compel the production of books and records. The orders and subpoenas issued by said director, in pursuance of the authority in him vested by provisions of this section, may be enforced upon the application of said director to any circuit court by proceedings in contempt therein, as provided by law.

HISTORY: CL 1929, 218;—Am. 1933, p. 281, Act 187, Imd. Eff. June 28;—CL 1948, 21.7.

21.8 Departments and offices of state government supported by appropriations following submission of budget; specific funds for certain offices.

Sec. 8. All departments, institutions, boards, commissions and offices of the state government shall hereafter be subject to the provisions of this act and, except as hereinafter provided, shall each be wholly supported and maintained by specific appropriations by the legislature, following the submission to the legislature of the budget, herein provided, containing the recommendations of the budget director, relative thereto: Provided, That the game and fish divisions of the department of conservation, in all their activities, shall be wholly financed from the game and fish protection fund, which fund shall be estimated by the budget director and set up in the budget and specifically appropriated for such purposes by the legislature: Provided further, That the Michigan board of aeronautics, in all its activities shall be wholly financed from the state aeronautics fund, which fund shall be estimated by the budget director and set up in the budget and specifically appropriated for such purposes by the legislature: Provided further, That the state highway department, in all its activities, shall be wholly financed from the highway fund, which fund shall be estimated by the budget director and set up in the budget and specifically appropriated for such purposes as are provided by law.

HISTORY: CL 1929, 219;—Am. 1933, p. 282, Act 187, Imd. Eff. June 28;—CL 1948, 21.8.

21.9 State departments and offices supported wholly by appropriations; specific funds provided for certain institutions; emergency claims; grants; conditions for release of building funds.

Sec. 9. All departments, institutions, boards, commissions, and offices of the state government except the university of Michigan and the Michigan state college of agriculture and applied science, shall hereafter be wholly financed and maintained by specific appropriations by the legislature, and except that the Michigan state normal college shall continue to receive such income as it may derive from its interest fund. Except as herein otherwise provided, the auditor general shall not issue warrants on the state treasury and the state treasurer shall not pay money out of the state treasury for any specific purpose when no funds have been specifically appropriated for such purpose, or the expenditure of funds for such purpose has not been provided for by some legislative enactment or contemplated by the legislature, but warrants shall be issued and payments made from the state treasury only in pursuance of specific appropriations made by the legislature, and for the purposes for which the appropriations were made. The auditor general shall not issue warrants on the state treasury and the state treasurer shall not pay money out of the state treasury when an appropriation, to which the expenditures if made would be charged, is exhausted, either from the proper use of the total amount of such appropriation or because such appropriation or balance thereof has been unencumbered at the end of the fiscal biennium and has reverted to the general fund under any law of this state. Nothing herein contained shall be construed to prevent the allowance and payment of emergency claims out of any

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fund or funds provided therefor, nor to prevent any institution, department, board, commission or office from accepting gifts, grants, bequests or any assistance whatsoever from private sources or from the United States government, in the furtherance of the purposes of such institution, department, board, commission or office. No funds shall be released by the state administrative board for building purposes, except in case of fire, flood or other calamity, unless and until the following conditions have been met:

1. The entire amount of moneys necessary for the completion of the contemplated building project, or a complete unit thereof, shall be available in cash in the general fund before any contract shall be let for such building.

2. Such release will not create or add to a deficiency in the general fund.

HISTORY: CL 1929, 230;—Am. 1933, p. 282, Act 167, Imd. Eff. June 28;—CL 1948, 21.9.

21.10 State revenue; disposition, appropriation, accounting; petty cash account; revolving funds; inventories; activities fees, fund.

Sec. 10. Except as hereinafter provided, all revenue of the state government, from whatever source derived, shall be turned into the state treasury by the state department, institution, board, commission or officer, which makes collection or receives such revenue, on or before the first day of each month following its collection or receipt and credited to the general fund: Provided, That the revenue of the game and fish protection fund, state aeronautics fund and highway fund shall not be credited to or revert to the general fund. No funds shall be placed to the credit of any state institution in the state treasury unless specifically authorized by law, and then only upon warrant of the auditor general and for the purpose, or purposes, named in the appropriation or governing statute. The auditor general may refuse to draw his warrant upon the state treasury for any funds requested by any state department, institution, board, commission or office unless satisfactory showing shall be made that the funds requested are actually needed at the time and in the amount named in such request: Provided, That such funds as shall be needed, from time to time, by each state institution shall be credited to its appropriation account in the state treasury upon warrant of the auditor general, and the amount so credited shall only be paid out of the state treasury upon check-vouchers signed by the executive officer of the institution, the form of which check-voucher shall be prescribed by the auditor general. All such funds shall be used by said institutions strictly for the purpose, or purposes, named in the appropriation act, or acts, and in accordance with the requirements of the general accounting laws of the state: Provided, That each state institution shall be permitted to establish and maintain a petty cash account in an amount which the auditor general shall deem necessary and expedient, but in no case shall such account exceed, at any time, the sum of $500.00. The provisions of this section shall not apply to or affect such revenue as may be derived by the university of Michigan and the Michigan state college of agriculture and applied science from sources other than specific appropriations. Nothing in this act contained shall be construed to impair the continued existence of any revolving fund now existing, and the state treasurer shall keep separate account of all such funds, and the same shall be paid out of the state treasury in accordance with the requirements of this section. Any profit accruing from the use of any revolving fund shall be placed to the credit of that fund. The commission in control of every state institution conducting industrial operations on state account shall on July 1st, 1933, and annually thereafter, make a full and complete inventory and appraisal of all property used in its industrial operations and file a copy thereof with the budget director. The state board of education may in its discretion collect from each student enrolled in any of the normal colleges or in the Michigan state normal college a reasonable fee to be placed in a special fund and to be expended under the direction

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of said board for the purpose of fostering athletics, oratory, debating and similar student activities in the institution where collected and for the giving of student lecture and musical courses and for maintaining a student health service. The board of control of Ferris institute may, in its discretion, collect from each student enrolled in Ferris institute a reasonable fee to be placed in a special fund and to be expended under the direction of said board for the purpose of fostering athletics, oratory, debating and similar student activities in the institution where collected and for the giving of student lectures and musical courses and for maintaining a student health service.

HISTORY: CL 1929, 221;—Am. 1933, p. 283, Act 187, Imd. Eff. Jun. 28;—Am. 1937, p. 210, Act 136, Imd. Eff. Jul. 2;—CL 1948, 21.10;—Am. 1953, p. 43, Act 49, Eff. Oct. 2.

21.11 State administrative board, responsibility for allotment of appropriations through budget director; limitations on cost and indebtedness; revolving fund established to purchase supplies.

Sec. 11. The state administrative board, through the budget director, shall cause the several appropriations made by the legislature to the several state institutions, departments, boards, commissions and offices to be divided into allotments, based upon the periodic requirements of these governmental units, and no institution, department, commission, board or office shall be permitted to exceed such allotments: Provided, That neither the state administrative board nor any state institution, department, commission, board or office shall incur operating costs in any fiscal year in excess of appropriations made by the legislature. Neither shall they have authority to apply or divert any moneys to any work or purpose whatsoever other than as specifically specified in said appropriation, without the specific authority of the administrative board, and no debt shall hereafter be contracted, or any financial obligation incurred, by or on behalf of the state of Michigan, by the state administrative board or any state department in the state of Michigan, commission, board or office, in excess of the appropriation made by the legislature or authorized by law. It is the intent and purpose of this act that hereafter no debt shall be created or authorized in behalf of the state of Michigan by the state administrative board or any state department, institution, commission, board or officer unless the creation of such debt is distinctly authorized by law, and neither shall any specific appropriation of the legislature be used or applied for any other purpose than as specified in said appropriation, without the specific authority of the administrative board: Provided further, That the budget director is hereby empowered to authorize the purchase of supplies and materials, from a revolving fund hereby established, for maintaining institution inventories to ultimately be charged to appropriation allotments on the basis of actual usage. Any violation of this section by any state department, institution, commission, board or officer shall be reported promptly by the auditor general of the state of Michigan to the attorney general, and disciplinary action taken as provided in section 13 of this act.

HISTORY: CL 1929, 222;—Am. 1933, p. 284, Act 187, Imd. Eff. June 28;—Am. 1941, p. 178, Act 136, Imd. Eff. May 27;—Am. 1947, p. 357, Act 236, Eff. Oct. 11;—CL 1948, 21.11.

21.11a State budget; tax levy to meet appropriations.

Sec. 11a. The legislature shall fix in the state budget the state tax levy and/or other sources of revenue to cover the years represented in the said budget to meet the appropriations therein made.

HISTORY: Add. 1933, p. 284, Act 187, Imd. Eff. June 28;—CL 1948, 21.11a.

21.12 Board of state auditors; allowance of claims for stationery, paper, printing, binding and supplies required; exception, legislature.

Sec. 12. All claims against the state for printing, binding, stationery and supplies furnished by any person, firm or corporation under and by virtue of any contract entered into with the board of state auditors, or by the board of state auditors, to any state de-

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partment, board, commission or officer shall, before any warrant is drawn or issued therefor, be presented to, and audited and allowed by, said board of state auditors.

All other claims against the state, before any warrant in payment thereof is drawn or issued, shall be presented to and audited and approved by either said board of state auditors or the auditor general, in accordance with the statutes in such case made and provided, or that may be hereafter enacted: Provided, however, That all claims for printing, supplies, and all other expenses incurred by the legislature, or either house thereof, when in session, shall, if presented during the session, be audited and approved by the president of the senate, or by the speaker of the house of representatives, as the case may be, or by both said officers if the expense is jointly authorized, and if such claims are incurred or presented when the legislature is not in session, they shall be audited and approved by the secretary of the senate, or the clerk of the house of representatives, as the case may be, or by both officers if the expense is jointly authorized, and shall be paid by the state treasurer.

HISTORY: CL 1929, 223;—CL 1948, 21.12.

21.13 Removal from office for noncompliance with requirements of act; duty of budget director.

Sec. 13. The governor shall have the power, and he is hereby directed upon a finding of guilt, to remove from office the executive officer of any state department, the members of any state board or commission, or the incumbent of any other office of the state government, who refuses or wilfully neglects to comply with any of the requirements of this act. It shall be the duty of the budget director to report to the governor each such refusal or neglect and thereupon the governor, before taking final action thereon, shall summon the person, or persons, complained against to make answer why he, or they, should not be removed from office.

HISTORY: CL 1929, 224;—CL 1948, 21.13.

21.14 Budget director, offices.

Sec. 14. The board of state auditors are hereby directed to furnish suitable offices for the use of said budget director.

HISTORY: CL 1929, 225;—Am. 1933, p. 284, Act 187, Imd. Eff. June 28;—CL 1948, 21.14.

Sec. 15. (Original section 15 was an appropriation section. Section 15, amended by Act 187 of 1933, was a repeal section.)

HISTORY: Am. 1933, p. 284, Act 187, Imd. Eff. June 28;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

ACT REPEALED: Sec. 4, Act 2, 1921, CL 1929, 204; Act 240, 1921, CL 1929, 251; Act 52, 1917, CL 1929, 336-338.

21.16 Repeal; exceptions.

Sec. 16. Sections 6 and 7 of Act No. 206 of the Public Acts of 1881 being sections 1941 and 1942 of the Compiled Laws of 1915, in so far as said sections relate to the powers and duties of the state board of correction and charities, and to the making of reports to said board by certain state institutions; and all other acts or parts of acts contravening the provisions of this act, including the provisions of all acts making specified periodical (continuing) appropriations, except Act No. 107 of the Public Acts of 1915, and Act No. 204 of the Public Acts of 1913, as amended by Act No. 167 of the Public Acts of 1915 relating, respectively, to appropriations for the Western State Normal School and Michigan State Normal College for buildings and special purposes, and Act No. 32 of the Public Acts of 1873, as amended by Act No. 303 of the Public Acts of 1907, and Act No. 232 of the Public Acts of 1901, as amended by Act No. 114 of the Public Acts of 1915, relating, respectively to the mill tax for the support of the University of Michigan and the Michigan Agricultural College, and Act No. 97 of the

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Public Acts of 1917, authorizing a war loan, and Act No. 241 of the Public Acts of 1917 authorizing the erection, construction and equipment of a state office building in the city of Lansing, are hereby repealed.

HISTORY: CL 1929, 226;—CL 1948, 21.16.

NOTE: Secs. 6 and 7 of Act 206 of 1881, above referred to, are Compilers' §§ 21.76 and 21.77. Act 107 of 1915, Act 204 of 1913, as amended by Act 167 of 1915 and Act 241 of 1917, have not been included in any compilation. Act 32 of 1873, being CL 1929, 7792 and 7793, as last amended by Act No. 2, 1932, 1st Ex. Ses., was repealed by Act 11, 1935. Act 232 of 1901 is Compilers' §§ 390.222-390.225. Act 97 of 1917 was repealed by Act 309 of 1929, CL 1929, 121.

21.21-21.23 Repealed. 1962, p. 456, Act 211, Eff. Mar. 28, 1963.

Sections provided for charging and transferring of unexpended balances of appropriations.

21.31, 21.32 Repealed. 1965, p. 129, Act 95, Imd. Eff. Jun. 28.

Sections provided for disposition of unencumbered balances of appropriations.

Act 71, 1919, p. 129; Imd. Eff. Apr. 15.

AN ACT to provide for the formulation and establishment of a uniform system of accounting and reporting in the several departments, offices and institutions of the state government, and in all county offices; to provide for the examination of the books and accounts of each state department, office and institution, and of each county office; to provide for annual financial reports from all such departments, institutions and offices, and for the tabulation and publication of comparative financial statistics relating thereto; to provide that the auditor general and board of state auditors shall administer the provisions of this act, prescribing their powers and duties in relation thereto; to provide penalties for violation, or failure to comply with the requirements of this act; to provide for meeting the expense authorized by this act, and to repeal Act No. 183, Public Acts of 1911 and all other acts or parts of acts contravening the provisions of this act.

The People of the State of Michigan enact:

21.41 Accounting and reporting system; installation by auditor general; uniformity.

Sec. 1. It shall be the duty of the auditor general to formulate, prescribe and install a system of accounting and reporting in conformity with the provisions of this act that shall be uniform for every state department, office and institution, and for every county office and public account of the same class. The auditor general is hereby required and directed to proceed to carry out the requirements of this section immediately following the date this act takes effect.

HISTORY: CL 1929, 299;—CL 1948, 21.41.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

FORMER ACT: Act 183 of 1911, being CL 1915, 266-275.

CITED IN OTHER SECTIONS: Sections 21.41 to 21.53 are cited in § 16.180.

21.42 Accounting system; accounts, form and contents.

Sec. 2. Said system shall embrace accounts showing all sources of income, the amounts due, collected and received from each source, including all fees collected by county officers whether turned into the county treasury or not, the amount expended for each purpose, bills and accounts payable; the receipt, use and disposition of other public property and the income, if any, derived therefrom. Said system shall also embrace accounts which shall show for each industry conducted by any institution or department of the state government the unit cost of operation and shall be in such form

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as shall exhibit actual detailed financial results of each industrial activity. Said system shall embrace such other forms of accounts as the auditor general may deem wise and essential to efficient financial administration of public affairs pertaining to the state and county governments.

HISTORY: Am. 1921, p. 373, Act 187, Imd. Eff. May 17;—CL 1929, 300;—CL 1948, 21.42.

21.43 Accounting system; separate accounts for appropriations, contents.

Sec. 3. A separate account shall be kept of each appropriation, or fund, made to or received by each department, institution and office of the state government, and by each county office, which shall show the date and manner of each payment therefrom, the name and address of the person or association of persons to whom paid, and for what purpose paid.

HISTORY: CL 1929, 301;—CL 1948, 21.43.

21.44 Accounting system; uniform annual financial reports from departments; filing, publication, distribution.

Sec. 4. It shall be the duty of each department, institution and office of the state government, and each county office, to make an annual financial report in accordance with forms prescribed by the auditor general which shall be uniform for all accounts of the same class. Said reports shall be made in duplicate, 1 copy of which shall, within 30 days after the close of each fiscal year, be filed in the office of the auditor general and 1 copy with the governor, and shall contain an accurate statement in summarized form showing, for each fiscal year ending June 30, the amount of all collections and receipts from all sources, and their disposition, all accounts due the public treasury but not collected, the amount of expenditures for every purpose and by what authority authorized, the amount of indebtedness, the cost of operation of all industrial activities and financial results obtained therefrom, balance of funds on hand at the close of each fiscal period, together with such other information as may be required by the auditor general. The substance of these reports shall be arranged by the auditor general and published at the expense of the state in an annual volume of comparative statistics, and shall be in such form as shall show the comparative receipts from the various sources of revenue and the comparative costs of the several branches of the state and county governments. A sufficient number of copies of said volume shall be published to furnish a copy to each member of the legislature, a copy to each state department, institution and office, a copy to each county office, and 200 copies for general distribution.

HISTORY: CL 1929, 302;—CL 1948, 21.44.

21.45 Auditor general, powers of examination and review of accounts; state accident fund, assistants, compensation and expenses.

Sec. 5. The auditor general shall hereafter be the supervisor of the accounts of all state departments, institutions and offices, and of all county offices. He shall have the power, and he is hereby directed, to examine, or cause to be examined, the books, accounts and financial affairs of each department, institution and office of the state government, and of each county office and shall review the audit of the state accident fund as performed by the department of insurance. Such examination shall be made at least once in each year, or as often as in the judgment of the auditor general it shall be for the public good. The auditor general is hereby authorized to employ such auditors, examiners and assistants as he deems necessary, the number and compensation of whom shall be subject to the approval of the state administrative board and shall be within the limits of the amount of money appropriated for such purpose. In addition to such compensation, they shall be paid their necessary traveling expenses, which compensation and expenses, when audited and approved by the auditor general, shall be paid by the state treasurer out of the fund appropriated for that purpose, upon war-

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rant of the proper officer. The auditor general and the deputy auditor general shall receive their actual traveling expenses incurred while engaged in administering the provisions of this act, which shall be paid by the state treasurer out of the funds appropriated for that purpose, upon warrant of the auditor general.

HISTORY: Am. 1921, p. 373, Act 187, Imd. Eff. May 17;—CL 1929, 303;—CL 1948, 21.45;—Am. 1953, p. 55, Act 59, Eff. Oct. 2.

21.46 Examination of accounts; subpoenas, witnesses, production of records.

Sec. 6. Upon demand of the auditor general, deputy auditor general, or any person duly appointed by the auditor general, to make the examinations herein provided, it shall be the duty of any and all officers of the state and county governments to produce, for examination, the books of account and papers of their respective departments, institutions and offices, and to truthfully answer all questions relating thereto. In connection with such examinations, the auditor general, deputy auditor general, or any person designated to make such examinations, may issue subpoenas, direct the service thereof by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine such persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by the auditor general, deputy auditor general, or by any person charged with the duty of making the examinations herein provided, in pursuance of the authority in them vested by provisions of this section, may be enforced upon their application to any circuit court by proceedings in contempt therein, as provided by law.

HISTORY: CL 1929, 304;—CL 1948, 21.46.

21.47 Accounting system; report of examination of accounts, filing; criminal and civil proceedings; prosecution, removal for neglect.

Sec. 7. A report shall be made, in duplicate, of each examination made in accordance with the provisions of this act. Said duplicate report shall be signed and verified by the officer making the examination, 1 copy of which shall be filed in the office of the auditor general and 1 copy with the executive officer of the department, institution or office examined. If any such examination discloses malfeasance, misfeasance, nonfeasance or gross neglect of duty on the part of any officer or employe of any department, institution, or office of the state government, or on the part of any officer or employe of any county office, for which a criminal penalty is provided by law, an additional copy of such report shall be made and filed with the attorney general, whose duty it shall be, within 60 days after receipt of such report, to institute criminal proceedings against such officer or employe, or direct that such criminal proceedings be instituted by the prosecuting attorney of the county in which the offense was committed. It shall also be the duty of the attorney general, or the prosecuting attorney, as the case may be, to institute civil action in any court of competent jurisdiction for the recovery of any public moneys, disclosed by any such examinations to have been illegally expended, or collected and not accounted for; also for the recovery of any public property disclosed to have been converted and misappropriated. Refusal or neglect to comply with the requirements of this section on the part of the attorney general, or on the part of the prosecuting attorney of any county in the state, shall be sufficient cause for his removal from office by the governor.

HISTORY: CL 1929, 305;—CL 1948, 21.47.

21.48 Accounting system, adoption by state officers mandatory; refusal, penalties; refusal of examination.

Sec. 8. It is hereby made the duty of the executive officers of each state department, institution and office, and the executive officer of each county office, to adopt and use the books, forms, records and systems of accounting and reporting, prescribed by the auditor general and to promptly purchase such books, forms and records as may be

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necessary thereto, in the manner now provided by law for the purchase of such articles. Refusal or neglect on the part of any officer of any branch of the state government, or any county officer, to provide such books, forms or records, or to use them, or to make the reports required by this act, or keep the accounts of his office as directed by the auditor general, shall be sufficient cause for his removal from office by the governor: Provided, That after the uniform accounting system has been installed in any county, should it become necessary for an examiner employed under this act to perform any service, which a county officer has neglected or refused to do, in order to properly continue such system, then the per diem and expense incurred shall be a proper charge against the county wherein such service was performed. A statement covering such per diem and expense may be forwarded by the auditor general to the county clerk who shall forthwith issue his warrant upon the county treasurer who shall pay it from the general fund of the county. Money so received by the state shall be paid into the state treasury to the credit of the general fund.

HISTORY: Am. 1921, p. 374, Act 187, Imd. Eff. May 17;—CL 1929, 306;—CL 1948, 21.48.

21.49 Accounting system; removal for noncompliance; hearing.

Sec. 9. The governor shall have the power, and he is hereby directed upon a finding of guilt, to remove from office the officer of any branch of the state government, or county government, who refuses or wilfully neglects to keep the accounts of his office in the manner and form prescribed by the auditor general, or to make the reports herein provided, or who refuses or neglects to comply with any other requirements of this act. It shall be the duty of the auditor general to promptly report to the governor, each such refusal or neglect and thereupon the governor, before taking final action thereon, shall *summons the officer complained against to make answer why he should not be removed from office.

HISTORY: CL 1929, 308;—CL 1948, 21.49.

*NOTE: It is evident to the Compiler that the word "summons" should be "summon."

21.50 Accounting system; audit of department of auditor general.

Sec. 10. The auditor general's department shall be audited by the state board of auditors who shall have like powers and authority for that purpose as hereby conferred upon the auditor general for the examination of other boards and institutions.

HISTORY: CL 1929, 309;—CL 1948, 21.50.

21.51 Bribing examiner, penalty.

Sec. 11. Any person who shall give or offer to any examiner, accountant, clerk or other employe of the auditor general's department, any money, gift, emolument, or thing of value for the purpose of influencing the action of such examiner, or other person, in any matter relating to the examination of any public account authorized by this act, or for the purpose of preventing or delaying the examination of any such public account, or for the purpose of influencing the action of such examiner, or other person, in framing, changing, withholding or delaying any report of any examination of any such public account shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than 1,000 dollars nor less than 200 dollars, or he may be imprisoned in the Detroit House of Correction for a period of not more than 6 months and not less than 30 days, or he may be punished by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1929, 310;—CL 1948, 21.51.

21.52 Bribe; soliciting or receiving, penalties.

Sec. 12. Any person appointed by the auditor general to make the examinations herein provided, or any officer, clerk or other employe of the auditor general's department, who shall receive, or solicit any money, gift, emolument, or anything of value for the purpose of being influenced in the matter of the examination of any public ac-

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count authorized by this act, or for the purpose of being influenced to prevent or delay the examination of any such public account, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than 1,000 dollars and not less than 200 dollars, or he may be imprisoned in the Detroit House of Correction for a period of not more than 6 months and not less than 30 days, or he may be punished by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1929, 311;—CL 1948, 21.52.

21.53 Accounting system; biennial estimate of expenses by auditor general or budget commission or commissioner; appropriation, reimbursement.

Sec. 13. The auditor general shall estimate, as near as may be, the amount of money necessary to meet the expense of administering the provisions of this act during each year of the biennial period, commencing the first day of July, 1919, and he shall make a similar estimate every 2 years thereafter: Provided, That if the legislature shall provide for a budget system of making and controlling appropriations, then, and in that case, the duty imposed upon the auditor general by this section shall thereafter be discharged by a budget commission or budget commissioner, as the case may be, and the expense of administering the provisions of this act shall be met by a specific appropriation, included in the budget. There is hereby appropriated from the general fund of the state a sufficient amount to meet the expenditures necessary to carry out the requirements of this act, and the auditor general is hereby directed to incorporate in the state tax a sufficient amount to reimburse the general fund for the money drawn from it for the purposes herein provided.

HISTORY: CL 1929, 312;—CL 1948, 21.53.

Sec. 14. (This was a repeal section.)

HISTORY: CL 1929, 313;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 183, 1911.

Act 228, 1903, p. 359; Eff. Sep. 17.

AN ACT to regulate the accounting of state institutions, boards and commissions, to provide for the examination and inspection thereof, the removal of officers therefrom, and to repeal Act 123, Public Acts of 1895 and all other acts or parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

21.61 State agencies; inspection of accounts by auditor general or agent.

Sec. 1. That the auditor general by himself, his deputy, general accountant or such other person or persons as he may designate, shall visit at least once in each year each of the several state institutions and the receiving and disbursing officer of every board and commission required to file vouchers in the auditor general's department, showing the receipts and disbursements of public money, and thoroughly examine and inspect the books and accounts thereof for the purpose of ascertaining if such books and accounts are accurately and properly kept, and to ascertain if the moneys received and disbursed are correctly and properly stated in the accounts of such institution, board or commission.

HISTORY: CL 1915, 1945;—CL 1929, 314;—CL 1948, 21.61.
FORMER ACT: Act 123 of 1895, being CL 1897, 2231-2237.
UNIFORM SYSTEM OF ACCOUNTING: See Compilers' § 21.41 et seq.
TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

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21.62 State agencies; report by auditor general of irregularities in accounts to governor.

Sec. 2. In case the auditor general, by himself, his deputy, general accountant or such other person or persons as he shall designate, shall find any irregularity or irregularities in the accounting of any state institution, or by any officer receiving or disbursing moneys on account of the state of Michigan, or shall find that the funds of any state institution or in the custody of any receiving, disbursing or accounting officer have been or are being used for any purpose other than that for which they have been appropriated or received, the auditor general shall immediately report the facts in the case in writing to the governor.

HISTORY: CL 1915, 1946;—CL 1929, 315;—CL 1948, 21.62.

21.63 State agencies; investigation of irregularities in accounts, hearing; removal of officers.

Sec. 3. Upon receiving such report from the auditor general the governor shall immediately, or as soon thereafter as may be practicable, proceed in such manner as he may deem proper to make inquiry and investigation for the purpose of verifying the statements made in such report of the auditor general, and if satisfied that the statements and representations made by such auditor general are true and of a character to warrant such action on his part, or if he shall find that any receiving or disbursing officer or custodian of funds of any state institution, board or commission is negligent or incompetent, he may in his discretion suspend or remove from office the person or officer offending or who is responsible for the custody and keeping of such funds: Provided, however, That in cases of removal the officer or person offending shall have a hearing before the governor upon written charges preferred by the governor or other person or persons, and shall be given 10 days' time after service of such charges in which to prepare and present an answer to the governor, but such officer shall be and remain suspended pending such proceedings.

HISTORY: CL 1915, 1947;—CL 1929, 316;—CL 1948, 21.63.

21.64 Auditor general; authority to inspect accounts of state agencies.

Sec. 4. The auditor general, by himself, his deputy, general accountant or such other person or persons as he shall designate, shall at all times have access to the books and accounts of each and every state institution or in the hands of any officer or person receiving or disbursing money on account of the state, and shall direct and instruct as to the manner of keeping the books and accounts therein so that the workings and transactions of each and every department of such institution shall be clearly shown and exhibited to his satisfaction; and upon receiving such direction and instruction from said auditor general, his deputy, general accountant or such other person or persons as he shall designate, the officer responsible for the accounting in such institution or for the custody of the moneys or funds received or disbursed on account of the state of Michigan shall immediately proceed to inaugurate such system of bookkeeping as the auditor general may direct or prescribe.

HISTORY: CL 1915, 1948;—CL 1929, 317;—CL 1948, 21.64.

21.65 Governor may order special investigation by auditor general; expenses.

Sec. 5. The governor may at any time order a special investigation to be made by the auditor general and require a report thereof to be made to him in writing of the condition of the accounts or funds of any state institution or officer receiving or disbursing moneys on account of the state: Provided, That the special investigation may be made at any time under direction and authority of the auditor general either upon his own motion or at the request of the governing board of any state institution, and the auditor general may employ such assistance in making such investigations or in ex-

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amining the books and accounts of any state institution or officer receiving or disbursing moneys on account of the state, as may to him appear necessary for the prompt and proper performance of the work; and payment for any special examination of the accounts of any institution, board or commission shall be made only where such examination has been conducted under the provisions of this act and in such case from the funds and in the manner prescribed by the provisions of this act.

HISTORY: CL 1915, 1949;—CL 1929, 318;—CL 1948, 21.65.

21.66 Financial statements submitted by auditor general to governor.

Sec. 6. The auditor general shall make to the governor quarterly, and as much oftener as the governor may require, a statement of the receipts and disbursements of money by each and every state institution or officer receiving or disbursing moneys on account of the state.

HISTORY: CL 1915, 1950;—CL 1929, 319;—CL 1948, 21.66.

21.67 Expenses for inspection of accounts; payment.

Sec. 7. All expenses incurred by the auditor general, his deputy, general accountant or such other person or persons whom he shall designate in carrying out the provisions of this act, shall be paid out of the general fund of the state from any moneys not otherwise appropriated, upon vouchers duly verified and allowed by the board of state auditors.

HISTORY: CL 1915, 1951;—CL 1929, 320;—CL 1948, 21.67.

Sec. 8. (This was a repeal section.)

HISTORY: CL 1915, 1952;—CL 1929, 321;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 123, 1895.

Act 206, 1881, p. 247; Eff. Sep. 10.

AN ACT to provide for the uniform regulation of certain state institutions, and to repeal section 7 of Act No. 148 of the Session Laws of 1873, Act 162 of the Session Laws of 1873, Act No. 31 of the Session Laws of 1875, section 17 of Act No. 213 of the Session Laws of 1875, section 17 of Act No. 176 of the Session Laws of 1877, section 16 of Act No. 133 of the Session Laws of 1879, section 20 of Act No. 250 of the Session Laws of 1879 and all acts or parts of acts contravening the provisions of this act.

The People of the State of Michigan enact:

21.71 State institutions; definition.

Sec. 1. That all educational, charitable, reformatory and penal institutions, supported wholly or in part by the state, shall be known as state institutions.

HISTORY: How. 412;—CL 1897, 2223;—CL 1915, 1936;—CL 1929, 426;—CL 1948, 21.71.
COMPILERS' NOTE: For regulations dealing with particular institutions see chapter for particular institution.

21.72-21.76 Repealed. 1962, p. 16, Act 18, Eff. Mar. 28, 1963.

Sections provided for uniform regulation of certain state institutions.

21.76a Contracts for televising affairs of state institutions; provisions for general transmission.

Sec. 6a. No state institution, or any state board, division or department, shall enter into any contract for the televising or phonovising of any of its programs, affairs or events under which contract the programs, affairs or events are to be used as entertainment for which a fee is charged unless provision is also made in such contract for the transmission at the same time of the same programs, affairs, or events to television owners generally in this state.

HISTORY: Add. 1951, p. 175, Act 143, Eff. Sep. 28.

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21.77-21.79 Repealed. 1962, p. 16, Act 18, Eff. Mar. 28, 1963.
Sections required approval for plans for certain state institutions and for keeping accounts.

21.81-21.88 Repealed. 1962, p. 456, Act 212, Eff. Mar. 28, 1963.
Sections provided for accounting for money received and expended by certain officers.

Act 116, 1887, p. 132; Imd. Eff. May 21.

AN ACT to change the termination of the fiscal year of the state from September thirtieth to June thirtieth.

The People of the State of Michigan enact:

21.91 Fiscal year; definition.

Sec. 1. That the present fiscal year of the state shall close June thirtieth, 1887, and that thereafter the fiscal year shall commence July first and close June thirtieth.

HISTORY: How. 354a;—CL 1897, 1173;—CL 1915, 259;—CL 1929, 291;—CL 1948, 21.91.

Sec. 16, Ch. 12, R.S. 1846 (CL 1857, 163), fixed December 1st as the beginning, and November 30th as the end of the fiscal year.

21.92 Annual or biennial reports of state agencies to be for fiscal year; exception.

Sec. 2. It shall be the duty of all officers, boards or institutions, from whom annual or biennial reports are required, to make their several reports for the fiscal period or periods defined in section 1 of this act: Provided, That provisions of this act shall not apply to the reports required of the superintendents of the poor as provided in section 28 of Act No. 148 of the session laws of 1869.

HISTORY: How. 354b;—CL 1897, 1174;—Am. 1913, p. 547, Act 283, Eff. Aug. 14;—CL 1915, 260;—CL 1929, 292;—CL 1948, 21.92.

NOTE: Act 148 of 1869, above referred to, has been repealed, but Sec. 28 thereof has been substantially reenacted as part of Sec. 24, Ch. 2 of Act 146 of 1925, being Compilers' § 402.24, which was in turn, repealed by P.A. 1957, No. 292, Eff. Sept. 27.

Sec. 3. (This was a repeal section.)

HISTORY: How. 354c;—CL 1915, 261;—CL 1929, 293;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 258, 1941, p. 450; Imd. Eff. Jun. 17.

AN ACT to simplify the accounting procedures of the state; to provide for the state funds through which all state accounting or bookkeeping transactions are to be recorded; to provide for the discontinuance or merging of certain state funds; to adjust the accounting of payments into the highway bond sinking fund on a fiscal year basis; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

21.101 State funds; accounting transactions; enumeration.

Sec. 1. The state funds through 1 of which each accounting transaction pertaining to revenue, appropriations, allotments, expenditures, encumbrances, non-revenue receipts, non-operating expenditures, assets, liabilities, reserves, surplus, deficit, and all other accounting transactions provided by law are to be recorded are declared to be as follows:

Operating funds

The general fund

Game and fish protection fund

Michigan employment security act—administration fund

State aeronautics fund

Michigan veterans' benefit (trust) fund

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State trunkline fund
Michigan state waterways fund
Motor vehicle highway fund
Trust and agency funds
Michigan state police pension, accident and disability fund
Kedzie memorial fund
Escheats fund
Federal county road fund
Children's institute trust fund
Public guardian trust fund
State employees' retirement fund
Public school employees' retirement fund
Hospital patients' trust and benefit fund
Veterans' military pay fund
Judges' retirement fund
Sinking and redemption funds
Highway bond sinking fund
Veterans' bond redemption fund
Hospital bond redemption fund
Bond fund
State hospital building fund
Revolving funds
Liquor purchase revolving fund
Michigan state industries revolving fund
Mackinac straits ferry revolving fund
Revolving industrial fund for the blind
State insurance fund
Paper and stationery revolving fund
Office services revolving fund
Motor transport revolving fund
Inventory revolving fund
Common cash fund
State treasurer's common cash fund

HISTORY: CL 1948, 21.101;—Am. 1952, p. 218, Act 174, Imd. Eff. Apr. 25.

21.101a Non-state resources; accounting transactions.

Sec. 1a. Accounting transactions affecting non-state resources deposited with the state treasurer by private parties or other governmental jurisdictions under the terms of contracts, wills or other legal requirements which designate specific state officials by title as trustees or agents for custody and disposition of such resources shall be recorded in the following funds:

Garden public school building trust fund
Municipal employees' retirement fund
F.H.A. mortgages escrow fund
Contribution fund (social security)
State office buildings corporation fund
State office buildings bond redemption fund
Michigan state accident fund

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Workmen's compensation injury trust fund

HISTORY: Add. 1952, p. 219, Act 174, Imd. Eff. Apr. 25.

21.102 State funds; accounting information; payments to highway bond sinking funds.

Sec. 2. Except as otherwise provided in this act, the extent and nature of the accounting information to be recorded through the foregoing funds and any restrictions or other special requirements relating thereto shall be the same as is now provided for by law in respect thereto and, in the absence of any specific legal restrictions or designations, the interpretation of the appropriate manner of such handling as given effect to in the annual financial report of the state of Michigan issued by the auditor general for the fiscal year ended June 30, 1940, shall prevail: Provided, That beginning July 1, 1941, the annual payment from the state highway fund to the highway bond sinking fund provided by section 19(a) of Act 150 of the Public Acts of 1927, as amended, shall be made and accounted for on the basis of the fiscal year: And further provided, That the payment into the highway bond sinking fund of the sum of $1,000,000.00, which has been deposited therein since January 1, 1941, shall be deemed to comply with said section 19 up to June 30, 1941.

HISTORY: CL 1948, 21.102.

21.103 Merger of certain funds with general fund.

Sec. 3. The following state funds, heretofore provided for by law or set up for accounting convenience are merged with, and made a part of, the general fund:

State fair, county fair, 4-H clubs and agricultural fund
Specific tax fund
Severance tax fund
Intangible tax fund
Steamship tonnage tax fund
Vocational education fund
Special vocational education fund
Vocational rehabilitation fund
Liquor license fund
National forest reserve fund
Milk marketing fund
Library fund
Ypsilanti state hospital construction fund
Northern Michigan tuberculosis sanatorium construction fund
Federal emergency relief fund
Tax redemption fund
State land office board trust fund
Michigan state cement industry revolving fund
Michigan state fair revolving fund
Upper peninsula state fair revolving fund

For accounting convenience only the educational interest fund, school equalization fund, primary supplement fund and the primary school interest fund may be combined with other items of the general fund under the general caption of education, provided all subjects of taxation now contributing to the primary school interest fund shall be segregated and strictly accounted for and all taxes from such subjects shall be applied in a strict conformity with the provisions of section 1, article 10 of the constitution of the state of Michigan.

HISTORY: CL 1948, 21.103;—Am. 1952, p. 219, Act 174, Imd. Eff. Apr. 25.

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21.103a Merger of certain fund with funds from which made available.

Sec. 3a. Any appropriation or account heretofore or hereafter provided for by law or set up for accounting convenience, when the purpose for which any such appropriation or account was established is completed and so determined by the auditor general, is merged with, and made a part of the fund from which it was made available.

HISTORY: Add. 1943, p. 134, Act 97, Imd. Eff. April 13;—Am. 1945, p. 84, Act 88, Imd. Eff. April 13;—CL 1948, 21.103a.

21.103b Primary school interest fund; abolition, transfer of balance to general fund.

Sec. 3b. Notwithstanding any other provision of law to the contrary, all taxes and revenue which prior to July 1, 1964 were credited to the primary school interest fund, shall hereafter be paid in to the state treasury for credit to the general fund. The primary school interest fund is abolished and any undistributed balance remaining therein through June 30, 1964 is transferred to the general fund.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 62, Act 47, Eff. Jan 1, 1964;—Am. 1964, p. 90, Act 91, Eff. Jul. 1.

21.104 Merger of certain funds with highway fund.

Sec. 4. The following funds, heretofore provided for by law or set up for accounting convenience are merged with, and made a part of, the state highway fund:

Auto theft fund

Secretary of state branch office fund

N.R.A. highway construction fund.

HISTORY: CL 1948, 21.104.

21.105 Merger of Grand Trunk right-of-way relocation fund with highway bond sinking fund.

Sec. 5. The Grand Trunk right-of-way relocation fund is herewith merged with, and made a part of, the highway bond sinking fund.

HISTORY: CL 1948, 21.105.

21.106 Federal aid and suspense funds, discontinuance and transfer to state funds.

Sec. 6. The federal aid fund and all suspense funds are declared to be discontinued and inoperative and all uncleared transactions in those funds at the effective date of this act shall be distributed to, and accounted for in, the state fund to which they pertain or in which they eventually would be recorded under existing accounting procedures except as modified by the provisions of this act.

HISTORY: CL 1948, 21.106.

21.107 Merged funds; accounting procedures and restrictions.

Sec. 7. Any restrictions or accounting procedures provided by law for the recording or disposition of appropriations, revenue, allotments, expenditures, encumbrances, non-revenue receipts, non-operating expenditures, assets, liabilities, reserves, surplus or deficit and all other accounting transactions heretofore recorded through the funds merged with, and made a part of, other funds as provided in sections 3, 4, 5 and 6 of this act are to remain in full force and effect to the extent that no less effective procedures, restrictions, segregations or other accounting be maintained in the fund after the merger than was maintained in the fund merged.

HISTORY: CL 1948, 21.107.

21.108 Merged funds; amendment of existing statutes containing reference thereto.

Sec. 8. All acts or parts of acts providing for the establishment or maintenance of any of the separate funds merged with the general fund, state highway fund, highway bond sinking fund or any other fund as provided in sections 3, 4, 5 and 6 hereof are hereby amended to the extent that any reference made to such separate fund shall be

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deemed, instead, to be reference to the fund with which such separate fund is merged under the provisions of this act.

HISTORY: CL 1948, 21.108.

21.109 Merged funds; disposition of surplus or deficit; aeronautics fund, exception.

Sec. 9. Any available surplus in any fund merged with another fund under the provisions of this act shall be added to the available surplus, or shall be applied in reduction of the deficit of the fund with which it is merged, except to the extent that it is required by law to be otherwise restricted for some specific purpose. Any deficit in any fund merged with another fund under the provisions of this act is to be charged to the surplus or added to the deficit of the fund with which it is merged: Provided, That any unexpended surplus or unexpended revenue now in the state aeronautics fund and all present sources of revenue contributing to that fund shall continue to be restricted for expenditure only by the state board of aeronautics after merger of the state aeronautics fund with the general fund and shall not revert to the general fund surplus or be applied in reduction of the general fund deficit at the end of any fiscal year or biennium.

HISTORY: CL 1948, 21.109.

21.110 State treasurer's common cash fund; assets and liabilities.

Sec. 10. The assets of the state treasurer's common cash fund shall consist of:

(a) Such remaining cash of the several state funds as may have been deposited by the state treasurer in 1 or more common bank depositories commingled with the cash of any other fund or funds in such depositories or held by the state treasurer for eventual deposit in such depositories.

(b) The cash overdrafts due from such state funds for which expenditures from such commingled depositories had exceeded the cash deposited or placed to their respective credit in such depositories.

The liabilities of the state treasurer's common cash fund shall comprise the equities of such state funds for which the aggregate of the cash deposited or placed to their respective credit in the state treasurer's common cash fund has exceeded the cash expended for their account therefrom.

HISTORY: CL 1948, 21.110.

21.111 Financial statements for fiscal year ending June 30, 1941.

Sec. 11. In order to place the accounting record of the fiscal year ending June 30, 1941, on a consistent basis, the auditor general shall, in all financial statements pertaining to the fiscal year ending June 30, 1941, hereafter issued, give effect to the provisions of this act in the same manner as though they had been authorized as of the beginning of the fiscal year ending June 30, 1941, except in respect to any action taken by the auditor general under the provisions of section 12 of this act, which action shall be made retroactive to the beginning of the fiscal year in which it is taken.

HISTORY: CL 1948, 21.111.

21.112 Controller; authority to merge, combine or segregate state funds.

Sec. 12. The controller, department of administration, is authorized, subject to the approval of the state administrative board, to simplify the accounting methods and procedures of the state by merging, combining or segregating any other fund which now is, or may be, provided by law: Provided, That such merging, combining or segregating is made subject to the provisions of section 7 of this act: And provided further,

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That none of the funds designated in section 1 of this act as operating funds or sinking funds may be merged or combined with any of the other funds so designated in section 1 as operating funds or sinking funds.

HISTORY: CL 1948, 21.112;—Am. 1952, p. 220, Act 174, Imd. Eff. Apr. 25.

Sec. 13. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Sec. 14. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 259, 1941, p. 453; Imd. Eff. Jun. 17.

AN ACT to provide for the disposition of any surplus or deficit in certain state revolving funds at the end of a fiscal year; to authorize the state administrative board to make temporary advances to certain revolving funds and to provide a method of ensuring their repayment; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

21.121 Revolving funds; surplus, definition.

Sec. 1. The term "surplus" as used in this act in reference to revolving funds shall be construed to represent, at any given date, the excess of (a) cash and such other recognized assets as are expected to be resolved into cash or its equivalent in the natural course of events and with a reasonable certainty, but exclusive of inventories, over (b) the liabilities and necessary reserves at the same date for materials received and expenses incurred except for accounts payable for liquor received in an amount not to exceed the value of the liquor inventory and exclusive of commitments, for which no benefit was received at, or prior to, the given date.

HISTORY: CL 1948, 21.121;—Am. 1958, p. 17, Act 19, Imd. Eff. Mar. 21.

CITED IN OTHER SECTIONS: Sections 21.121 to 21.130 are cited in §§ 291.34, 436.10, and 800.325.

21.122 Revolving funds; deficit, definition.

Sec. 2. The term "deficit" as used in this act in reference to revolving funds shall be construed to represent the converse of the term "surplus" as defined in section 1 of this act. That is, it shall be construed to represent, at a given date, the excess of (a) the liabilities and necessary reserves, exclusive of commitments, over (b) cash and other recognized assets, exclusive of inventories, except for the liquor purchase revolving fund for which inventories shall be included.

HISTORY: CL 1948, 21.122;—Am. 1958, p. 17, Act 19, Imd. Eff. Mar. 21.

21.123 Revolving funds subject to provisions of act; enumeration.

Sec. 3. The revolving funds to which the provisions of this act are applicable are stated to be as follows:

Liquor purchase revolving fund

Michigan state industries revolving fund

Michigan state fair revolving fund

Upper peninsula state fair revolving fund

Mackinac Straits ferry revolving fund

State automotive repair and supply depot revolving fund

Administrative board revolving fund

Any reference in this act to a revolving fund or funds without further qualification shall be construed to be reference to the foregoing funds.

HISTORY: CL 1948, 21.123.

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21.124 Revolving funds exempt from provisions of act.

Sec. 4. The provisions of this act shall not be applicable to the following revolving funds except for such provisions of this act as make specific reference to these funds and designate the extent to which the act is applicable to them:

Revolving industrial fund for the blind

Traverse City general hospital fund

State insurance fund

HISTORY: CL 1948, 21.124.

21.125 Surplus in revolving funds; disposition at end of fiscal year.

Sec. 5. Whenever, at the end of any fiscal year, a surplus, as defined in section 1 of this act, shall exist in any of the revolving funds named in section 3 hereof, such surplus, if it exists in the Mackinac Straits ferry revolving fund shall be transferred as revenue of that fiscal year to the state highway fund, and if it exists in any of the other revolving funds named in section 3, it shall be transferred as revenue of that fiscal year to the general fund.

HISTORY: CL 1948, 21.125.

21.126 Deficit in revolving fund; automatic appropriation to cover.

Sec. 6. Whenever, at the end of any fiscal year, a deficit, as defined in section 2, shall exist in any of the revolving funds named in sections 3 and 4, such deficit, if it exists in the Mackinac Straits ferry revolving fund shall be covered by an automatic appropriation in equivalent amount from the state highway fund for that fiscal year, and if it exists in any of the other revolving funds, including the revolving industrial fund for the blind, Traverse City general hospital fund, and state insurance fund, it shall be covered by an automatic appropriation in equivalent amount from the general fund for that fiscal year.

HISTORY: CL 1948, 21.126.

21.127 Advances to revolving fund during fiscal year.

Sec. 7. The state administrative board, upon recommendation of the budget director, is authorized to make advances to any of the revolving funds named in sections 3 and 4 of this act from time to time during a fiscal year but all of such advances shall, without exception, be repaid to the source from which advanced prior to the end of the same fiscal year. Any advances authorized to the Mackinac Straits ferry revolving fund shall be made from the state highway fund. Any advances authorized to any of the other revolving funds named in sections 3 and 4 shall be made from the general fund.

HISTORY: CL 1948, 21.127.

21.128 Advances to revolving fund; schedule of repayment.

Sec. 8. The budget director is authorized to determine and establish a schedule of dates and amounts to be applicable to the repayment of advances authorized and made in accordance with the provisions of section 7 during any fiscal year but, without exception, any such schedule shall provide for repayment of such advances in full by the end of the fiscal year in which they were made.

HISTORY: CL 1948, 21.128.

21.129 Partial transfers during fiscal year in anticipation of surplus in revolving funds.

Sec. 9. The budget director may authorize partial transfers from time to time during a fiscal year to the state highway fund or the general fund, as the case may be, in anticipation of surplus to be earned or realized during that fiscal year in any of the revolving funds named in section 3. The aggregate of such transfers from any revolving

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fund during the fiscal year shall be adjusted at the end of the fiscal year to the amount authorized for transfer in accordance with the provisions of section 5 of this act.

HISTORY: CL 1948, 21.129.

21.130 Surplus or deficit in revolving funds as of June 30, 1941; disposition.

Sec. 10. Any surplus, as defined in section 1 existing in the revolving funds named in section 3 of this act, and any deficit, as defined in section 2, existing in the revolving funds named in sections 3 and 4 of this act at June 30, 1940, as shown by the financial report of the state of Michigan, issued by the auditor general for the fiscal year ended June 30, 1940, shall be disposed of in the same manner as is provided in this act for the disposition of surplus and deficits of revolving funds, except that the resulting credit or charge to the general fund or the state highway fund, as the case may be, shall not be construed to be revenue or expenditures of the fiscal year ending June 30, 1941, but shall, instead, be construed to represent an adjustment of the general fund deficit or the state highway fund surplus, as the case may be, as of the beginning of the fiscal year ending June 30, 1941.

HISTORY: CL 1948, 21.130.

Sec. 11. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Sec. 12. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 105, 1855, p. 238; Eff. May 15.

AN ACT relative to the disposition of the surplus funds in the state treasury.

Secs. 1-2.

HISTORY: CL 1857, 272-3;—CL 1871, 351-2;—How. 398-7;—Rep. 1945, p. 410, Act 267, Imd. Eff. Mar 25.

NOTE: These two sections provided for the investment of surplus funds in certain bonds of the state then outstanding. They are of no force now, since the indebtedness referred to has been extinguished.

21.143 Surplus state funds; deposit, security, interest, investment.

Sec. 3. The state treasurer shall require of any bank, before he shall have made it a depository of surplus funds belonging to the state, good and ample security, to be approved by the state treasurer, the attorney general and the secretary of state, for the safekeeping and reimbursement of such surplus funds, whenever called for, and the payment of such rate of interest as the state treasurer, in his discretion, shall deem best for the interest of the state. The state treasurer may invest any surplus funds belonging to the state in the bonds, notes and other evidences of indebtedness of the United States government and its agencies and in prime commercial paper.

HISTORY: CL 1857, 274;—Am. 1863, p. 352, Act 200, Eff. Jun. 22;—CL 1871, 353;—How. 398;—CL 1897, 1189;—CL 1915, 289;—CL 1929, 348;—Am. 1933, p. 13, Act 15, Imd. Eff. Feb. 27;—CL 1948, 21.143;—Am. 1967, p. 126, Act 102, Imd. Eff. Jun. 21.

21.144 Liability of state treasurer and his bail.

Sec. 4. Nothing herein contained, shall be held or considered, as in any manner changing or affecting the liability of the state treasurer or his bail, on his or their bond to the state.

HISTORY: CL 1857, 275;—CL 1871, 354;—How. 399;—CL 1897, 1190;—CL 1915, 290;—CL 1929, 349;—CL 1948, 21.144.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1857, 276;—CL 1871, 355;—How. 400;—CL 1915, 291;—CL 1929, 350;—Rep. 1945, p. 402, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 46, 1853; Act 63, 1853.

Act 20, 1842, p. 24; Eff. Feb. 21.

AN ACT to provide for the withdrawal of treasury notes and for other purposes.

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Sec. 1.

HISTORY: Rep. 1929, p. 822, Act 309, Imd. Eff. May 24, being CL 1929, 121.

NOTE: This section related to the receipt and payment of fares, etc., on works of internal improvement.

Sec. 2.

HISTORY: CL 1857, 232;—CL 1871, 307;—How. 402;—CL 1897, 1178;—CL 1915, 276;—Rep. 1929, p. 822, Act 309, Imd. Eff. May 24, being CL 1929, 121.

NOTE: This section related to the cancellation of treasury notes.

21.153 Obligations due state or municipality; payment by check or bank draft, date operative; legal tender.

Sec. 3. Whenever any check or bank draft shall be tendered for the payment of any debt, taxes or other obligation due to the state or to any municipality therein, such check or draft shall operate as a payment made on the date the check or draft was received and accepted by the receiving officer, if it shall be paid on presentation without deduction for exchange or cost of collection. All agencies of the state of Michigan shall request that checks tendered in payment of an obligation due the state shall be made payable to the state of Michigan. No receiving officer shall be required to receive in payment of any debt, taxes or other obligation collectible or receivable by him any tender other than gold or silver coin of the United States, United States treasury notes, gold certificates, silver certificates or federal reserve bank notes.

HISTORY: CL 1857, 233;—CL 1871, 308;—How. 421;—CL 1897, 1179;—Am. 1899, p. 357, Act 228, Eff. Sep. 23;—CL 1915, 277;—CL 1929, 339;—CL 1948, 21.153;—Am. 1964, p. 143, Act 152, Eff. Aug. 28.

21.154 Public officers; payment of public funds received into treasury; violation, penalty.

Sec. 4. All collecting and disbursing officers, all county and township treasurers, and all other public officers or agents through whose hands public moneys pass, are hereby required to pay into the state, county and township treasuries, as the case may be, or to state, county and township creditors, as the case may be, at the option of such creditors, or to civil and military officers entitled to compensation for public services, at the option of such officers, the same description of funds which they shall have received in the collection of taxes or other public dues, or for freight and charges to passengers on the state railroads. Any of the aforesaid collecting and disbursing officers or agents, who shall violate any of the provisions of this act, or shall appropriate any of the public moneys to his or their own private use, except in pursuance of law; or shall lend to others, or otherwise embezzle any of the said public moneys, he or they shall be prosecuted for said offense, and on conviction thereof, be punished by fine and imprisonment; the fine not to be more than 1,000 dollars, and the imprisonment not to exceed 5 years at the discretion of the court.

HISTORY: CL 1857, 234;—CL 1871, 309;—How. 422;—CL 1897, 1180;—CL 1915, 278;—CL 1929, 340;—CL 1948, 21.154.

Act 145, 1901, p. 197; Eff. Sep. 5.

AN ACT to provide for the acceptance and collection of grants, devises, bequests, donations and assignments to the state of Michigan.

The People of the State of Michigan enact:

21.161 Grants and gifts to state; acceptance by governor, report to legislature.

Sec. 1. Whenever any grant, devise, bequest, donation, gift or assignment of money, bonds or choses in action, or of any property, real or personal, shall be made to this state, the governor is hereby directed to receive and accept the same, so that the right and title to the same shall pass to this state; and all such bonds, notes or choses in action, or the proceeds thereof when collected, and all other property or thing of value,

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so received by the state as aforesaid, shall be reported by the governor to the legislature, to the end that the same may be covered into the state treasury or appropriated to the State University, or to the public schools, or to such state charities as may be here after directed by law.

HISTORY: CL 1915, 282;—CL 1929, 341;—CL 1948, 21.161.

21.162 Title of state to grants and gifts, to be protected by attorney general.

Sec. 2. Whenever it shall be necessary to protect or assert the right or title of the state to any property so received or derived as aforesaid, or to collect or reduce into possession any bond, note, bill or chose in action, the attorney general is directed to take the necessary and proper proceedings and to bring suit in the name of the state in any court of competent jurisdiction, state or federal, and to prosecute all such suits; and is authorized to employ counsel to be associated with him in such suits and actions, who, with him, shall fully represent the state and shall be entitled to reasonable compensation out of the recoveries or collections in such suits and actions.

HISTORY: CL 1915, 283;—CL 1929, 342;—CL 1948, 21.162.

21.171-21.175 Repealed. 1962, p. 454, Act 209, Eff. Mar. 28, 1963.

Sections created a board of fund commissioners and prescribed powers and duties.

Act 111, 1861, p. 150; Eff. Jun. 15.

AN ACT relating to deposit accounts, and to interest, exchange and commissions received or paid by the state treasurer.

The People of the State of Michigan enact:

21.181 Bank deposit accounts of state moneys; state treasurer, responsibility.

Sec. 1. That it shall be the duty of the state treasurer to keep the accounts of the treasurer with all banks or depositories where any moneys of the state may be kept or deposited upon the regular books of his office so that each item of all such accounts shall appear therein.

HISTORY: CL 1871, 240;—How. 356;—CL 1897, 1191;—CL 1915, 292;—CL 1929, 352;—CL 1948, 21.181.

21.182 Interest accounts.

Sec. 2. All items of interest which may become due the state from banks or otherwise shall be entered on the books of the treasurer when received, in such manner that it shall appear upon what account and for what time such interest accrued.

HISTORY: CL 1871, 241;—How. 357;—CL 1897, 1192;—CL 1915, 293;—CL 1929, 353;—CL 1948, 21.182.

21.183 Vouchers for disbursements to be furnished before issuance of warrants.

Sec. 3. It shall be the duty of the treasurer to furnish vouchers for any items paid by him from parties to whom the same were paid whether for interest, exchange, commissions or otherwise, before the auditor general shall issue a warrant therefor.

HISTORY: CL 1871, 242;—How. 358;—CL 1897, 1193;—CL 1915, 294;—CL 1929, 354;—CL 1948, 21.183.

Act 22, 1875, p. 21; Imd. Eff. Mar. 10.

AN ACT to provide for the use of the proceeds of the sale of educational lands in defraying the expenses of the state government.

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The People of the State of Michigan enact:

21.191 Proceeds from sale of educational lands; use.

Sec. 1. That all money received into the state treasury from the sale of lands, and placed to the credit of the university fund, the agricultural college fund, the normal school fund, the primary school fund, or the 5 per cent primary school fund, on and after the first day of March, 1875, shall be used in defraying the expenses of the state government.

HISTORY: How. 395;—CL 1897, 1194;—CL 1915, 295;—CL 1929, 355;—CL 1948, 21.191.

Act 181, 1881, p. 215; Imd. Eff. May 31.

AN ACT to provide for the payment of interest on the educational funds, and to repeal section 10 of chapter 131 of the Compiled Laws of 1871, being compiler's section 3477.

The People of the State of Michigan enact:

21.201 Interest on educational funds; computation, payment.

Sec. 1. That upon all sums paid into the state treasury upon account of the principal of any of the educational funds, except where the provision is or shall be made by law, the auditor general shall compute interest from the time of such payment, or from the time of the last computation of interest thereon, to the first Monday of April in each and every year, and shall give credit therefor to each fund, as the case may be; and such interest shall be paid out of the specific taxes.

HISTORY: How. 5361;—CL 1897, 1195;—CL 1915, 296;—CL 1929, 356;—CL 1948, 21.201.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 356a;—Rep. 1947, p. 168, Act 129, Eff. Oct. 11.

ACT REPEALED: Sec. 10, Ch. 131, CL 1871, being CL 1871, 3477.

Act 143, 1859, p. 397; Eff. May 18.

AN ACT relative to the university interest fund.

The People of the State of Michigan enact:

21.211 University interest fund; interest credited, payment to university treasurer.

Sec. 1. That the auditor general be and he is hereby required to credit to the university interest fund, interest from and after the thirty-first day of December, 1860, on the entire amount that has heretofore been, or may be hereafter, received by the state for university lands sold, or contracted, and to draw his warrants upon the state treasurer for the same, who is hereby required to pay the same to the treasurer of the university upon his application therefor, from time to time, as the said interest may accrue, and be required for the use of the university.

HISTORY: CL 1871, 3888;—How. 5360;—CL 1897, 1196;—CL 1915, 297;—CL 1929, 357;—CL 1948, 21.211.

21.231, 21.232 Repealed. 1962, p. 453, Act 208, Eff. Mar. 28, 1963.

Sections provided for payment of expenses of certain state officers.

21.241-21.243 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections established a uniform method of payment to state employees.

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Act 95, 1965, p. 128; Imd. Eff. Jun. 28.

AN ACT to prescribe general rules governing appropriations; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

21.251 Appropriations; definitions.

Sec. 1. As used in this act:

(a) "Unencumbered balance" means the remainder of an appropriation after deduction of recorded operating expenditures and outstanding encumbrances.

(b) "Operating expenditure" means charges incurred for work performed, supplies and materials delivered, services rendered, grants-in-aid and debt service due, whether or not payment has been made.

(c) "Encumbrance" means future liabilities in the form of purchase orders, contracts or pledges which will become payable when goods are delivered or services rendered.

(d) "Work order" means an undertaking for the purpose of constructing, remodeling or adding to or making major repairs to buildings, structures or improvements.

(e) "Work project" means a 1 time nonrecurring undertaking for the purpose of accomplishing a specific objective, but does not include a work order.

HISTORY: New 1965, p. 128, Act 95, Imd. Eff. Jun. 28.

21.252 Lapse of unencumbered balance of appropriation; reversion to state fund; closing of state account books; charges against current year.

Sec. 2. At the close of the fiscal year the unencumbered balance of each appropriation lapses and reverts to the state fund from which it was appropriated. The central books of state accounts shall remain open for a period of not less than 30 days after the end of the fiscal year to allow for the recording of ascertainable documents properly applicable to such fiscal year. A document which is not ascertainable prior to the closing of the central books of state accounts for the past fiscal year may be charged against a current year's appropriation if the chief accounting officer of the state, in keeping with standard practices of governmental accounting, determines that the agency of state government was not wilful in its failure to ascertain or report the document.

HISTORY: New 1965, p. 128, Act 95, Eff. Jun. 28.

21.253 Encumbrance outstanding at end of fiscal year; lapse, charge to next fiscal year.

Sec. 3. An encumbrance entered into after June 15 and outstanding at the close of the fiscal year is not a charge against that fiscal year, but lapses as of the close of the fiscal year and is charged to the next succeeding fiscal year.

HISTORY: New 1965, p. 129, Act 95, Eff. Jun. 28.

21.254 Inapplicability of act to work order or work project.

Sec. 4. This act does not apply to an appropriation for a work order or a work project. Such appropriations continue to be available until completion of the work, when the remaining balance lapses and reverts to the state fund from which it was appropriated.

HISTORY: New 1965, p. 129, Act 95, Eff. Jun. 28.

21.255 Repeals.

Sec. 5. Act No. 28 of the Public Acts of the First Extra Session of 1921, as amended, being sections 21.31 and 21.32 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1965, p. 129, Act 95, Eff. Jun. 28.

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Act 260, 1947, p. 389, Eff. Oct. 11.

AN ACT to create a division under the direction of the state budget director to be known as the division of automotive control; to provide for the transfer of all property, facilities, equipment, and leases of the state automotive repair and supply depot; to provide for transfer of titles of certain motor vehicles now owned by the state to the division of automotive control; to establish automotive control revolving fund; to prescribe powers, duties, and limitations of said division of automotive control and to make an appropriation for the purchase of motor vehicles.

The People of the State of Michigan enact:

21.301 Division of automotive control; creation, duties and functions, personnel, expenses.

Sec. 1. There is hereby created a division under the direction of the state budget director to be known as the division of automotive control, which shall take title to and thereafter assume responsibility for the acquisition, operation, maintenance and repair of all motor vehicles owned by the state of Michigan, or any department, board, institution, commission, or agency thereof except as otherwise provided in this act. The budget director shall appoint an executive to be in charge of the division of automotive control, and such other personnel as may be necessary for the proper operation of the division. Classification and compensation of all persons so appointed and employed shall be fixed in accordance with official schedules of the state civil service commission. The division of automotive control is hereby authorized to incur such expenses as shall be necessary in carrying out the provisions of this act.

HISTORY: CL 1948, 21.301.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

21.302 Transfer of properties, facilities, equipment and leases; motor pool, use.

Sec. 2. All property, facilities, equipment and leases of the state automotive repair and supply depot and the motor car and transportation control pool as now functioning, are hereby transferred to the division of automotive control. All automotive equipment transferred to or purchased for the division of automotive control shall become a "motor pool" from which, upon requisition and proper showing to the budget department of need and use for official state business only, there may be assigned suitable transportation, either on a temporary or permanent basis.

HISTORY: CL 1948, 21.302.

21.303 Transfer of titles of state owned motor vehicles, exceptions; purchasing equipment, procedure.

Sec. 3. The titles to all motor vehicles now owned by the state, or any department, board, institution, commission or agency thereof, except the Michigan state police, Michigan state college, the university of Michigan, the highway department and the cars purchased from the game and fish protection restricted funds by the conservation department, are hereby transferred to the division of automotive control and are to be held in the name of the state. All motor vehicle equipment hereafter purchased by the state of Michigan, except for Michigan state college and the university of Michigan, shall be purchased in conformity with the standard purchasing procedures of the state administrative board in the name of the state upon order of the division of automotive control.

HISTORY: CL 1948, 21.303.

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21.304 Securing license plates; state ownership identification; exemptions.

Sec. 4. The division of automotive control shall secure license plates for all motor vehicles owned by the state as required under the provisions of section 7 of Act No. 302 of the Public Acts of 1915, as amended, and all state-owned vehicles shall bear a distinctive license plate and a 12-inch decal seal of the state of Michigan on the right hand and the left hand doors and on the rear thereof, showing state ownership: Provided, That license plates for motor vehicles assigned to the detective division of the Michigan state police and elective state officials and such other motor vehicles as the budget director shall determine, shall be exempt from displaying distinctive plates showing state ownership.

HISTORY: CL 1948, 21.304.

21.305 Maintenance, repair and replacement of state equipment; subsidiary motor pools.

Sec. 5. The division of automotive control shall direct and be responsible for all maintenance, repair and replacement of state automotive equipment except as herein provided, and it shall be the duty of the division to use and exhaust all state and other public facilities available for the maintenance and repair of motor vehicles. The executive officer of the division of automotive control, with the approval of the budget director, may establish in the state such subsidiary motor pools under his supervision as may be necessary.

HISTORY: CL 1948, 21.305.

21.306 Rules and regulations regarding state equipment; records; use of personal cars.

Sec. 6. The division of automotive control is hereby authorized to adopt such rules and regulations and install such a system of records as shall be necessary in carrying out the operation, maintenance, repair and replacement of motor vehicles under its jurisdiction. The use of personal cars shall be permitted where necessary on approval of the division of automotive control subject to mileage regulations established by the state administrative board.

HISTORY: CL 1948, 21.306.

21.307 Automotive control revolving fund, creation and transfer of moneys; purchasing; mileage or rental statements to state agencies.

Sec. 7. All moneys in the state automotive repair and supply depot revolving fund at the time of the effective date of this act shall forthwith be transferred to a revolving fund hereby established to be known as the automotive control revolving fund. Said revolving fund shall be used solely for the operation, maintenance, repair and replacement of motor vehicles and equipment under the jurisdiction of the budget director. The type of motor equipment purchased shall be limited to the most appropriate economical models. At the end of each month the division of automotive control shall render a statement on a basis of mileage or rental, to all state agencies to whom transportation has been furnished, and all payments shall be made to the automotive control revolving fund from appropriations or restricted funds available to said agencies.

HISTORY: CL 1948, 21.307.

21.308 Expenditures, vouchers.

Sec. 8. All expenditures under the provisions of this act shall be governed by the accounting laws of the state, and vouchers shall be signed by the executive head of the division of automotive control.

HISTORY: CL 1948, 21.308.

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21.309 Revolving fund; financial statement to legislature.

Sec. 9. The budget director shall annually furnish to the legislature a statement showing the financial condition of the revolving fund, an inventory of all equipment under jurisdiction of the division of automotive control, and such other information regarding the affairs of said division as are deemed necessary for a proper understanding of the operation and financial condition of the fund.

HISTORY: CL 1948, 21.309.

21.310 Appropriation from general fund for purchase of motor vehicles.

Sec. 10. There is hereby appropriated from the general fund for the fiscal year ending June 30, 1948 from moneys not otherwise appropriated the sum of $150,000.00 for the purchase of motor vehicles to be used in accordance with the provisions herein provided.

HISTORY: CL 1948, 21.310.

21.311 Repeal.

Sec. 11. Act No. 215 of the Public Acts of 1939, and any other acts or parts of acts contravening the provisions of this act are hereby repealed.

HISTORY: CL 1948, 21.311.

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24.315 Exemptions.

Act 44, 1899, p. 64; Imd. Eff. Apr. 18.

AN ACT to provide for the publication and distribution of laws and documents, reports of the several officers, boards of officers and public institutions of this state now or hereafter to be published, and to provide for the replacing of books lost by fire or otherwise, and to provide for the publication and distribution of the Michigan manual. Am. 1958, p. 176, Act 161, Eff. Sep. 13.

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The People of the State of Michigan enact:

24.1 Public acts, publication; classification, style, printing.

Sec. 1. The secretary of state is hereby directed and required, as soon as practicable after the close of any session of the legislature, to carefully examine and classify the acts passed and prepare the same for publication in bound volumes as follows: All acts of a general character which affect the people of the whole state; all joint resolutions; all amendments to the state constitution adopted after the publication of the acts of the last preceding session of the legislature; all acts of a local or municipal character, which do not affect the people of the whole state; abstracts of proceedings of boards of supervisors organizing new townships, consolidating townships, or changing the boundaries of townships, received and filed in the office of the secretary of state after the publication of the acts of the previous session of the legislature; abstracts of proceedings relative to incorporation and change of boundaries of cities and villages filed in the office of the secretary of state after the publication of the acts of the previous session of the legislature; abstracts of proceedings relative to the incorporation of charter townships filed in the office of the secretary of state after the publication of the acts of the previous session of the legislature; a certificate of the secretary of state setting forth the date of the final adjournment of the legislative session at which the acts published were enacted, and setting forth in the same certificate the date upon which all such acts, not given immediate effect or carrying an effective date, shall take effect according to the constitution; and so much of the annual report of the state treasurer for the latest completed fiscal year as shall give an accurate account of the receipts and expenditures of public moneys; all of which shall be published in 1 volume, properly arranged with catchlines of a style and printed in bold-face type similar to the catchlines in the last preceding compilation of the general laws, and indexes thereto, as the session laws are usually published, stamped on the back in ink similar to the way the volumes of the last preceding compilation of the general laws are stamped, "Public and Local Acts, Michigan, session of ....." In cases where a section appearing in the last preceding compilation of the general laws has been amended the catchline of such section shall contain the compilation section number given to such section in such compilation and such number shall be printed in bold-face type. The correct citation to the Michigan statutes annotated shall be placed in brackets in bold-face immediately following and as part of the catchline to each section. The style of printing, size, style and arrangement of type, and the size of the page for the volumes shall be similar to that of the last preceding compilation of the general laws. Cardinal numerals shall be printed in figures and not written out, except when a sentence begins with a cardinal numeral.

HISTORY: CL 1915, 820;—CL 1929, 486;—Am. 1931, p. 301, Act 187, Imd. Eff. May 28;—Am. 1939, p. 12, Act 6, Imd. Eff. Feb. 27;—CL 1948, 24.1;—Am. 1949, p. 39, Act 47, Imd. Eff. Apr. 7;—Am. 1958, p. 176, Act 161, Eff. Sep. 13.

CITED IN OTHER SECTIONS: Sections 24.1 to 24.37 are cited in § 16.209.

24.2 Public acts; free distribution, exchange, sale; pamphlet compilation.

Sec. 2. There shall be published of the volume containing the public and local acts of each session of the legislature a sufficient number of copies to supply the following with 1 copy each: Libraries of all state officers, departments, boards, commissions and institutions; members of the legislature who shall receive a complete set subsequent to the latest compiled laws for their personal property during each term for which elected; senators and representatives of this state in congress; the secretary of state of the United States; the United States senate library and the library of congress; judges and clerks of circuit and district courts of the United States in this state; justices, clerks and the reporter of the supreme court, judges of the circuit courts, judges and clerks of the superior, recorder's and municipal courts of this state; all county officers; to such supervisors, township clerks and justices of the peace as may file a requisition for same

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with the township clerk who shall file requisition for his township with his county clerk by January 31 of each year; clerks of incorporated villages; clerks and justices of the peace of incorporated cities actually serving as such; the secretary of the senate; the clerk of the house of representatives, 36 copies imprinted "senate" and 114 copies imprinted "house of representatives" to be used as desk copies, to be delivered to the secretary of the senate and the clerk of the house of representatives respectively; public libraries, bar association libraries and county law libraries, county and county branch libraries. The county clerk shall file a requisition for all copies of public acts for the needs of his county, including county offices, townships, villages and cities within his county, with the secretary of state by February 15, of each year. In addition to the foregoing, there may be published of said public and local acts such further number of copies as the secretary of state shall deem needful and 200 copies thereof shall be deposited in the state library for use in said library and for exchanges, and the remaining copies shall be deposited in the office of the secretary of state for sale and future distribution. The secretary of state is further authorized to publish and distribute at cost to all persons who shall require them, in pamphlet form, duly annotated and indexed, compilations of laws upon particular subjects. The auditor general shall publish and distribute all pamphlets of the general tax law or of all other laws relating to the revenues of the state.

HISTORY: Am. 1911, p. 413, Act 240, Eff. Aug. 1;—Am. 1915, p. 39, Act 29, Eff. Aug. 24;—CL 1915, 821;—Am. 1921, p. 50, Act 32, Eff. Aug. 18;—CL 1929, 487;—Am. 1931, p. 302, Act 187, Imd. Eff. May 28;—CL 1948, 24.2;—Am. 1958, p. 177, Act 161, Eff. Sep. 13.

24.3 Repealed. 1958, p. 181, Act 161, Eff. Sep. 13.

Section provided for publication of local acts and distribution to specified libraries and offices.

24.4 State laws and legislative manuals to be marked as state property.

Sec. 4. All the volumes of the state laws, legislative manuals and other books, hereafter published and distributed, and required to be retained in any library, or passed over by any officer to his successor in office, shall have marked or branded on both covers thereof the words "State property."

HISTORY: CL 1915, 823;—CL 1929, 489;—CL 1948, 24.4.

24.5 Session laws; sale of copies, price.

Sec. 5. The secretary of state is hereby authorized to sell, in his discretion, at a fair price, such extra copies of the session laws as will not be required for distribution, which sale shall be at not less than the actual cost thereof, and shall account for the same to the state treasurer, and pay the money received therefor into the state treasury monthly.

HISTORY: CL 1915, 824;—CL 1929, 490;—CL 1948, 24.5.

24.6 Official journals of senate and house; printing, distribution.

Sec. 6. The official journal of the senate and house of representatives shall be printed in solid brevier type, same size of page as that of the journals of 1929, and not to exceed 600 copies shall be printed and bound, in volumes of convenient size, to supply the following persons, officers, libraries and corporations with 1 copy each, viz.: Libraries of state officers, libraries of state institutions, libraries of state boards; members of the legislature of the year when said journals are issued, the secretary, assistant secretary and clerks of the senate, the clerk and assistant clerks of the house of representatives; senators and representatives in this state in congress, the United States senate library and the library of congress; judges and clerks of the United States circuit and district courts in this state; justices and clerk of the supreme court and judges of circuit courts. The surplus supply shall be deposited in the office of the secretary of state, to supply future demands.

HISTORY: CL 1915, 825;—CL 1929, 491;—Am. 1933, p. 4, Act 3, Imd. Eff. Feb. 13;—Am. 1939, p. 75, Act 40, Imd. Eff. Apr. 19;—CL 1948, 24.6.

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24.7 Repealed. 1958, p. 181, Act 161, Eff. Sep. 13.

Section provided for printing and distribution of board of agriculture reports.

24.8 Annual report of state horticultural society; printing, distribution.

Sec. 8. The secretary of the state horticultural society shall make a report annually, covering the subject of horticulture; such report, however, shall not be published for any year if a manuscript copy of the same be not furnished to the governor complete on or before the first day of February of the succeeding calendar year; and in case of the omission of the publication by reason of delay in furnishing said report, a synopsis, not exceeding 20 pages of printed matter of the delayed report, shall be printed in the succeeding volume of such report when furnished in accordance with the provisions of this section. Said report shall be printed and bound and distributed in a quantity provided in the appropriation made therefor by the legislature.

HISTORY: CL 1915, 827;—CL 1929, 493;—CL 1948, 24.8;—Am. 1958, p. 177, Act 161, Eff. Sep. 13.

24.9 Annual report of vital statistics; printing, distribution.

Sec. 9. The annual report of the state health commissioner of the births, marriages, deaths and divorces shall be printed and bound for distribution in a quantity provided in the appropriation made therefor by the legislature.

HISTORY: CL 1915, 828;—CL 1929, 494;—CL 1948, 24.9;—Am. 1958, p. 177, Act 161, Eff. Sep. 13.

24.10 Annual report of state health commissioner; printing.

Sec. 10. A sufficient number of copies of the annual report of the state health commissioner shall be printed in a quantity provided in the appropriation made therefor by the legislature.

HISTORY: CL 1915, 829;—CL 1929, 495;—CL 1948, 24.10;—Am. 1958, p. 177, Act 161, Eff. Sep. 13.

24.11 Annual report of superintendent of public instruction; printing.

Sec. 11. There shall be printed of the annual report of the superintendent of public instruction such quantity as shall be provided in the appropriation made therefor by the legislature.

HISTORY: Am. 1901, p. 51, Act 31, Imd. Eff. Mar. 28;—Am. 1903, p. 354, Act 225, Imd. Eff. Jun. 18;—CL 1915, 830;—CL 1929, 496;—CL 1945, 24.11;—Am. 1958, p. 177, Act 161, Eff. Sep. 13.

24.12 Annual report of commissioner of labor; printing.

Sec. 12. There shall be furnished of the annual report of the commissioner of labor such quantity as shall be provided in the appropriation made therefor by the legislature.

HISTORY: Am. 1903, p. 9, Act 9, Imd. Eff. Mar. 24;—CL 1915, 831;—CL 1929, 497;—CL 1948, 24.12;—Am. 1958, p. 178, Act 161, Eff. Sep. 13.

Sec. 13.

HISTORY: Am. 1901, p. 341, Act 219, Eff. Sept. 5;—Am. 1903, p. 355, Act 225, Imd. Eff. June 18;—Rep. 1909, p. 733, Act 300, Eff. Sept. 1.

24.14 Other reports; printing.

Sec. 14. Of all other reports not specifically enumerated in this act there shall be printed and bound such quantity as shall be provided in the appropriation made therefor by the legislature.

HISTORY: Am. 1903, p. 355, Act 255, Imd. Eff. Jun. 18;—Am. 1905, p. 469, Act 297, Eff. Sep. 16;—Am. 1911, p. 50, Act 42, Eff. Aug. 1;—Am. 1913, p. 114, Act 78, Eff. Aug. 14;—CL 1915, 832;—CL 1929, 498;—CL 1948, 24.14;—Am. 1958, p. 178, Act 161, Eff. Sep. 13.

24.15 Repealed. 1958, p. 181, Act 161, Eff. Sep. 13.

Section provided for printing and distribution of crop reports.

24.16 Repealed. 1957, p. 116, Act 95, Eff. Sep. 27;—1958, p. 181, Act 161, Eff. Sep. 13.

Section provided for printing and distribution of board of corrections and charities reports.

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24.17 State publications; complimentary distribution; violation, penalty.

Sec. 17. All state publications, the distribution of which is made at the expense of the state, and which is not otherwise provided by law shall be distributed by the secretary of state upon the written request of the several officers under whose charge the several reports may be issued. The cost of distribution of such publications shall be allowed in accordance with the accounting laws of the state. No publication containing slips "with compliments of ....," or other designating marks, indicating that the publication was sent to the recipient other than as a present from the state, shall be hereafter distributed under this section, or otherwise, at the expense of the state, and any officer or employe who knowingly permits or allows any violation of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be discharged from the employ of the state, and fined not less than 5 dollars nor more than 50 dollars, in the discretion of the court.

HISTORY: CL 1915, 835;—CL 1929, 501;—CL 1948, 24.17;—Am. 1958, p. 178, Act 161, Eff. Sep. 13.

24.18 Annual or biennial reports of state officers and agencies; period covered.

Sec. 18. It shall be the duty of the several officers and boards of this state, and also of the several public institutions thereof, from whom reports are now or may hereafter be required, unless otherwise especially provided for, to make their respective annual or biennial reports to the governor for the period covered by the fiscal year ending June 30.

HISTORY: CL 1915, 836;—CL 1929, 502;—CL 1948, 24.18;—Am. 1958, p. 178, Act 161, Eff. Sep. 13.

24.19 Annual or biennial reports; printing.

Sec. 19. All reports enumerated in this act which are made annually shall be printed annually; and all reports enumerated in this act which are made biennially shall be printed biennially.

HISTORY: CL 1915, 837;—CL 1929, 503;—CL 1948, 24.19.

24.20 State publications; additional copies for use and exchanges by state library.

Sec. 20. There shall be printed of all publications, reports and documents as provided in this act, such additional copies for use and exchanges by the state library as the state librarian may in his discretion deem necessary for such purpose.

HISTORY: CL 1915, 838;—CL 1929, 504;—CL 1948, 24.20;—Am. 1958, p. 178, Act 161, Eff. Sep. 13.

24.21-24.23 Repealed. 1958, p. 181, Act 161, Eff. Sep. 13.

Sections related to state publications; public and local acts and legislative journals.

24.24 Michigan manual; biennial publication, distribution.

Sec. 24. The secretary of state shall cause to be prepared and published biennially an official state manual to be known as the "Michigan Manual", to be distributed by him to the persons and officers hereinafter named, and to be ready for distribution not later than December 1 in each odd-numbered year; said publication to be of the same size, style and character of binding as that of the manual of 1957.

HISTORY: CL 1915, 842;—CL 1929, 508;—CL 1948, 24.24;—Am. 1958, p. 178, Act 161, Eff. Sep. 13.

24.25 Michigan manual; contents.

Sec. 25. The Michigan manual shall contain the following: The constitution of the United States, a list of the signers thereof, the amendments thereto, and a history of the amendments adopted; the constitution of the state of Michigan, and a list of amendments thereto proposed, adopted and rejected, the method of proposal, and the vote thereon, the vote by which the state constitution was adopted, and the vote on constitutional revision; the declaration of independence, and a list of the signers thereof; the vote for governor and secretary of state, by townships, cities and wards, at the last preceding November election, and showing the population of each according

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to the latest census; a list of postoffices in Michigan; a list of newspapers in Michigan; the latest statistics of educational, mental, medical, reformatory, and penal institutions of the state, arranged in such a way as to show the cost of conducting each of said institutions during the 2 fiscal years preceding, salary of officers, the amount of legislative appropriations, receipts from all other sources, and all expenditures and for what purposes, and also showing the number of students, patients or convicts, according to the nature of each institution, and the instruction or employment given in each; table of valuation of taxable property in the several counties of the state, as fixed by the state board of equalization for each of the latest two years; names, ages, occupations, residences, politics, and prior legislative service of the members of both houses of the legislature, and the names and residences of their officers; the names and residences of state officers and members of state boards and state institutions; a list of standing committees of both houses of the legislature; a list of former officials of the United States from Michigan; a list of former state officials of Michigan, showing in each case their county of residence; names of officers and delegates to the constitutional conventions of Michigan; the judicial systems of Michigan; the state judiciary; the territory and population of judicial circuits; United States courts in Michigan; names and dates of legal holidays; report of state treasurer; statistics of public school system of Michigan; a list of names and addresses of county school superintendents in Michigan, showing the counties for which serving; names of incorporated cities of Michigan, with date of incorporation, population according to the latest census and location, and reference to acts of incorporation; names of incorporated villages of Michigan, with date of incorporation, population according to the latest census and location, and reference to acts of incorporation; statistics of former legislatures of Michigan, giving length of session, number of laws enacted, number of joint resolutions, total membership, and politics; names of members of former Michigan legislatures sitting within the latest 10 years, giving postoffice addresses at time of membership, districts, and terms; names of speakers and speakers pro tem. of all former houses of representatives, with districts from which chosen and counties of residence, and terms; names of all former clerks of the house of representatives, with postoffice addresses at time chosen, and terms; names of presidents pro tem. of the senate of all former legislatures of Michigan, with districts from which chosen and counties of residence, and terms of such service; names of all former secretaries of the senate, with postoffice addresses at time chosen, and terms of such service; names of former Michigan members of United States senate with dates of election and years of service arranged in such a way as to show a history of occupancy of each of the 2 seats; names of former Michigan members of the United States house of representatives, with dates of election and years of service; lists of miscellaneous state associations, officers and residence of; congressional, senatorial, and representative districts, territory of and population of; the electoral vote for all presidents of the United States by states; a list of county officers elected at the preceding November election; the official canvass of votes cast at the preceding primary election for governor, lieutenant governor, United States senator, members of congress, and members of the legislature; the official canvass of votes cast at the preceding November election for electors of president and vice president of the United States, state officers, members of the legislature, United States senator, members of congress, and of proposals submitted to the people; a summary of votes cast at the preceding November election for state officers; a summary of votes cast for all governors of Michigan; the official canvass of votes cast at the April election in the biennium for which the manual is issued for state officers, justices of the supreme court and circuit judges; names of United States government officers in Michigan; the qualifications for voting in each of the states of the United States; state and territorial legislatures, time of meeting, number of members, length of session and salary of members, of the different

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states and territories of the United States; administration officers of all states, term of office, and salaries; executive officers of the United States government, and their compensation; names of members of congress from the several states, their residences, and politics; the United States judiciary; a descriptive summary of the duties of the several departments of the state government; a descriptive outline of the organization of the military department, with officers and companies of the Michigan national guard; a complete list of all departments, boards, commissions, and agencies of the state government, including special commissions created by executive authority, and also including ex officio boards, setting forth by reference the authority for their creation, whether constitutional, statutory, executive order, or other authority; biographical sketches of present United States senators from Michigan, members of national house of representatives from Michigan, members of the state legislature, and elective state officers; and also any other matter, which, in the opinion of the secretary of state, may be deemed essential.

HISTORY: Am. 1901, p. 324, Act 213, Eff. Sep. 5;—CL 1915, 843;—CL 1929, 509;—CL 1948, 24.25;—Am. 1958, p. 178, Act 161, Eff. Sep. 13.

24.26 Repealed. 1958, p. 181, Act 161, Eff. Sep. 13.

Section related to additional contents of legislative manuals.

24.27 Arrangement of statistics of public institutions in reports; contents.

Sec. 27. In all reports the statistics of educational, charitable, reformatory and penal institutions shall be arranged in such a way as to show the cost of conducting each of said institutions during the 2 fiscal years preceding, salary of officers, the amount of legislative appropriation, receipts from all other sources, and all expenditures, and for what purposes. The said statistics shall also show the number of students, inmates or prisoners, according to the nature of each institution, and the instruction or employment given.

HISTORY: CL 1915, 845;—CL 1929, 511;—CL 1948, 24.27;—Am. 1958, p. 180, Act 161, Eff. Sep. 13.

24.28 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Section provided for returns of vote for state officers by county clerk, and information for legislative manual.

Sec. 29.

HISTORY: CL 1915, 847;—Rep. 1921, p. 282, Act 132, Eff. Aug. 18.

This section provided for return by county clerk of vote for governor and secretary of state. Election law, see Act 351 of 1925, being Compilers' § 145.1 et seq.

24.30 Legislative manual; number of copies; distribution, exchange, sale.

Sec. 30. There shall be published of the legislative manual 15,800 copies, which shall be disposed of in the following manner, to-wit:

1. The secretary of state shall deliver 1 copy to each of the following, namely: Senators and representatives in Congress from this state; United States circuit and district court judges in this state; justices of the state supreme court; and the judges of the circuit, superior and probate courts; each county clerk and county school commissioner; each district, graded and city public school, and parochial school; each high school, public, private and parochial, in the state of Michigan; each public library other than school libraries; members of state boards and commissions; libraries of state officers and institutions; each clergyman officiating as chaplain during the preceding session of the legislature.

2. The secretary of state shall also deliver upon written application only, for distribution, the following number of copies, respectively as follows, to-wit: To each newspaper published in this state, 1; each township, village and city clerk, 1; to the governor, 50; lieutenant governor, 50; secretary of state, 25; state treasurer, 25; auditor general, 25; attorney general, 50; superintendent of public instruction, 50; public utilities commission, 25; state tax commission, 25; department of conservation, 25; banking commissioner, 25; department of agriculture, 25; commissioner of insurance, 25; com-

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missioner of labor and industry, 25; securities commission, 25; members of the senate, 25; speaker of the house, 50; members of the house, except speaker, 25; secretary of the senate, 25; clerk of the house, 25; the adjutant general, inspector general and quartermaster general, 5 each.

3. A sufficient number of copies shall be reserved by the secretary of state for exchange for manuals of other states.

4. Legislative manuals, the distribution of which is not provided for in this section, shall be deposited in the office of the secretary of state for sale and distribution. County clerks and county school commissioners may make applications for such quantity of legislative manuals as may be required in their respective counties under the provisions of this section; and the secretary of state shall furnish suitable application and receipt blanks upon request; where advisable the secretary of state shall arrange for taking applications through the county clerk or county school commissioner, and may prepare the necessary blanks accordingly. Applications for the manual by those entitled thereto under the provisions of this section, must be presented within 60 days after the same is ready for delivery and distribution, otherwise the secretary of state is authorized to make other disposition of the same.

HISTORY: CL 1915, 848;—Am. 1917, p. 805, Act 325, Eff. Aug. 10;—Am. 1921, p. 231, Act 105, Eff. Aug. 18;—CL 1929, 513;—CL 1948, 24.30;—Am. 1951, p. 29, Act 27, Eff. Sep. 28.

24.31 Reports of public institutions; number of copies.

Sec. 31. It shall be the duty of the secretary of state to advise with the several officers, boards of officers and public institutions making reports as to the number of copies of their reports necessary. And it shall be the duty of the state printer or binder to deliver at the office of the secretary of state, or at such other place or places as he may direct, all the books or pamphlets to be printed and bound, as mentioned in this act.

HISTORY: CL 1915, 849;—CL 1929, 514;—CL 1948, 24.31;—Am. 1958, p. 180, Act 161, Eff. Sep. 13.

24.32 Michigan manual; distribution by superintendent of schools; laws, journals, documents and reports, distribution by secretary of state.

Sec. 32. It shall be the duty of the county superintendents of schools to distribute all copies of the "Michigan Manual" to the schools in their respective counties, as provided in section 30 of this act; and also to see that the same are kept for the use of said schools, and it shall be the duty of the secretary of state to direct and oversee the prompt distribution of the laws, journals, documents and reports mentioned in this act, distribution of which is not otherwise provided for; and said laws, journals, documents, and reports shall be shipped to the several county clerks and county superintendents of schools in the state, and be distributed by them to the persons within their respective counties entitled to the same, and until so distributed, they shall be carefully preserved by said county clerks and county superintendents of schools.

HISTORY: CL 1915, 850;—CL 1929, 515;—CL 1948, 24.32;—Am. 1958, p. 180, Act 161, Eff. Sep. 13.

24.33 State publications; distribution by county clerks and superintendents of schools.

Sec. 33. It shall be the duty of the several county clerks and county superintendents of schools, upon receiving any of the books mentioned in this act, to receipt to the secretary of state for the same, which receipt shall be filed and preserved in the office of the secretary of state; and it shall also be the duty of the said county clerks and county superintendents of schools to distribute said books as provided in this act, and to report at the expiration of a month after each reception of books to the secretary of state, on blanks furnished by him, by giving a full statement of all of said books remaining in his office, together with the names of the officers neglecting to call for the books to which they are entitled; and it shall be the duty of all persons, upon receiving any of the books mentioned in this act, to receipt respectively to the county clerk and

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county superintendent of schools for the same, which receipt shall be filed and preserved in the office of the county clerk and county superintendent of schools respectively. It shall also be the duty of the secretary of state to notify each person to whom any books are sent, except township officers, either directly or in care of the county clerk, which are required by this act to be kept in any library or passed over to any successor in office, and that each person receiving such notice shall, within a reasonable time, apply to the county clerk for the books mentioned in this notice, if such books were sent to the county clerk, and obtain the same; and if such books have been received by the county clerk and are not called for as aforesaid, such person thus notified shall be held responsible in the same manner and to the like extent as in the case of his neglect or refusal to deliver over to his successor books received by him, except that books sent for the use of township officers may be sent to either the township clerk or county clerk, when the secretary of state shall notify the township clerk, who shall draw all of the books for the officers of his township and distribute the same.

HISTORY: CL 1915, 851;—CL 1929, 516;—CL 1948, 24.33;—Am. 1958, p. 180, Act 161, Eff. Sep. 13.

24.34 State officers, delivery of books to successors; damages, penalty; exception.

Sec. 34. Every person or officer who shall receive any of the books distributed by the secretary of state, which are required by this act to be placed in his library, and each city, village, township and county officer, shall, when he ceases to hold such office, deliver over to his successor in office all such books received by him; and any person who shall neglect or refuse to deliver over to his successor in office all such books, received by him as aforesaid, shall be liable to such successor in an action for money had and received to the full amount it shall cost him to furnish himself with such books, and costs of suit; which action shall, on request, be brought and prosecuted by the prosecuting attorney of the county; and any person who shall knowingly and wilfully retain any such books in his possession, or refuse to pass them over to his successor, shall also be subject to a penalty in a sum not exceeding 50 dollars, or be imprisoned in the county jail not exceeding 3 months, or both, in the discretion of the court: Provided, however, That township and county officers receiving the abstract of reports of county superintendents of the poor, of sheriffs, or of the insane, deaf, dumb and blind, shall not be required to pass them over to their successors.

HISTORY: CL 1915, 852;—CL 1929, 517;—CL 1948, 24.34.

24.35 State publications; distribution by township clerks; procedure in case of vacancy in township offices; compensation.

Sec. 35. It shall be the duty of the township clerk or his deputy, within 10 days after the receipt of the notice for books from the secretary of state, to call for the same and give his receipt to the county clerk, and distribute the books so received to the different officers of his township entitled to the same, taking their receipts therefor, and filing said receipts in his office, and transcribing them in a book for that purpose to be delivered to his successor. In case any vacancy occurs in a township office provided with books, the property of the state, which should be turned over to the officer filling such vacancy, it shall be the duty of the township clerk or his deputy to collect at once all such books and keep them in his custody until he can turn them over to the new officer filling such vacancy, taking his receipt therefor. The township board is hereby authorized and directed to allow said township clerk or his deputy all just and necessary expenses incurred by him, or a per diem for his compensation, for the performance of his duties imposed upon said township clerk by this section: Provided, That in case of a vacancy in the office of township clerk and deputy township clerk, or his inability to perform the duties as prescribed in this section, then the supervisor of the township shall perform the same: And provided further, That in case of vacancies or

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inabilities of the clerk, his deputy and the supervisor to perform such duties as prescribed above, the justice of the peace of the township whose term of office first expires shall perform these duties until such vacancy or vacancies are duly filled, or inability removed; and either the supervisor or justice of the peace performing such duties shall be entitled to the same compensation as the clerk if he had performed the duties.

HISTORY: CL 1915, 853;—CL 1929, 518;—CL 1948, 24.35.

24.36 State publications; loss of books by fire, etc.; replacement.

Sec. 36. In cases of loss by fire, or in any manner whatsoever beyond his control, of a book or books by an officer, who is required to transmit them to his successor, or if the same is so worn as to become useless said officer shall make a statement setting forth all the circumstances under which the loss occurred, which statement shall be sworn and subscribed to before an officer entitled to administer oaths, and certified to by the clerk of the county under his hand and seal of the court, and forward the same to the secretary of state, who, after examination of said affidavit, he being convinced that the facts as set forth in the affidavit are true, and that in his judgment the officer is not responsible for the loss of the book or books, is hereby empowered and authorized to replace the book or books lost as claimed, and in his discretion may send the book or books either to the county clerk or to the township clerk in whose township the loss occurred.

HISTORY: CL 1915, 854;—CL 1929, 519;—CL 1948, 24.36.

Sec. 37. (This was a repeal section.)

HISTORY: CL 1915, 855;—CL 1929, 520;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.
ACTS REPEALED: Act 20, 1889; Act 122, 1889.

24.37 Compilations of laws; distribution, exchange, sale; price.

Sec. 37. A sufficient number of sets of each compilation of the laws shall be delivered to the secretary of state for distribution as follows: 1 set each, including case annotations, to the libraries of the United States senate and house of representatives, the library of congress, members of the legislature without charge for their personal property during each term for which elected, elected state officers, secretary of the senate, clerk of the house of representatives, together with 40 sets imprinted "senate" and 114 sets imprinted "house of representatives" to be used as desk copies, to be delivered to the secretary of the senate and clerk of the house of representatives respectively, justices of the supreme court and judges of the circuit courts, the clerk and reporter of the supreme court, judges and clerks of recorder's, superior and municipal courts, prosecuting attorneys, circuit court commissioners, county clerks, judges of probate and bar association, county law libraries, the compilation commissioners, any organized legal aid bureau or society, and in addition 250 sets to the state library for use in the library and for exchanges. One set of the compilation without case annotations shall be delivered to each sheriff, county treasurer, and register of deeds, 175 sets for distribution to state boards, commissions and institutions. The secretary of state may sell from time to time copies at $10.00 per set. After the first 5 years following publication any volumes of the compiled laws may be separately purchased.

HISTORY: Add. 1958, p. 181, Act 161, Eff. Sep. 13;—Am. 1962, p. 72, Act 85, Eff. Mar. 28, 1963;—Am. 1964, p. 71, Act 66, Imd. Eff. May 12.

Act 120, 1919, p. 226; Imd. Eff. Apr. 25.

AN ACT to supplement the laws relating to the printing, binding, publication and distribution of state documents, prescribing the duties of the board of state auditors and the state departments, institutions, boards, commissions and officers with reference thereto.

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The People of the State of Michigan enact:

24.41 State publications; supervision by board of state auditors.

Sec. 1. The board of state auditors shall have supervisory powers and control over the printing and distribution of all publications relating to the activities of the state government, the publication of which is, or which may hereafter be, authorized by law. Said board of state auditors shall prescribe the form and extent of all reports, publications, and any and all printing and binding, of each department, institution, board, commission and office of this state; shall determine the number of copies thereof to be printed, the number of pages to which any such publication may extend, and also the kind of paper and binding to be used in such publications.

HISTORY: CL 1929, 521;—CL 1948, 24.41.

TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

24.42 State publications; review, revision and publication by board; expenses, approval.

Sec. 2. It shall be the duty of each department, institution, board, commission and office of the state government, directed by law to make annual or special reports, or to publish other documents, to hereafter send the copy therefor to the board of state auditors for revision and publication. It shall be unlawful for any such department, institution, board, commission or officers of this state to incur any expense on behalf of the state for the printing and publication of any report or document of any kind or character from and after the date when this act takes effect: Provided, The provisions of this act shall not apply to any publication, document, proclamation or report issued by the governor, the supreme court, or that may be ordered by the legislature or either house thereof. No warrant on the state treasurer for the payment of any moneys for the publication of any such reports, documents or publications shall be drawn or issued unless approved by said board of state auditors.

HISTORY: CL 1929, 522;—CL 1948, 24.42.

24.51, 24.52 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections provided for distribution of state publications to school districts.

Act 153, 1937, p. 236; Eff. Oct. 29.

AN ACT relative to printing for the state of Michigan; to establish the requirements of responsible bidders; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

24.61 State printing; requirements, exceptions.

Sec. 1. All printing for which the state of Michigan is chargeable, or which is paid for with funds appropriated wholly or in part by the state, excepting that which is printed for primary school districts, counties, townships, cities, villages and/or legal publications ordered for or by elective state officers, must be printed within the state of Michigan, and shall bear the label of the branch of the allied printing trades council of the locality in which they are printed, except under the following conditions:

1. Printing firms not having the use of the allied printing trades council union label and who are desirous of presenting bids for printing as enumerated above shall be required to establish consideration as a responsible bidder as follows:

(a) As a condition to consideration as a responsible bidder printing concerns must file with the secretary of state a sworn statement to the effect that employees in the employ of the concern which is to produce such printing are receiving the prevailing

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wage rate and are working under conditions prevalent in the locality in which the work is produced.

(b) Whenever a collective bargaining agreement is in effect between an employer and employees who are represented by a responsible organization which is in no way influenced or controlled by the management, such agreement and its provisions shall be considered as conditions prevalent in said locality and shall be the minimum requirements for being adjudged a responsible bidder under this act.

(c) Printing firms having the use of the allied printing trades council union label shall be deemed as having complied with the provisions of this act, but nothing in these provisions shall be construed as exempting such bidders from any provision of the act, and such bidders shall also be required to conform with all of its provisions.

2. State-owned printing establishments in Jackson prison and the boys' industrial school at Lansing shall be exempt from the above provisions: Provided, however, That these institutions shall not perform printing other than the needs and requirements of these institutions.

HISTORY: CL 1948, 24.61.

24.62 State printing; violation of act, penalty.

Sec. 2. Any officer or employee of the state who shall accept any printed matter, or is found to have had printed matter produced under conditions other than set forth in this act, and which is paid for with funds appropriated wholly or in part by the state, shall be subject to a fine of 50 dollars for each and every offense.

HISTORY: CL 1948, 24.62.

Sec. 3. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

24.71-24.80 Repealed. 1964, p. 199, Act 161, Eff. Aug. 28;—1969, p. 575, Act 306, Eff. Jul. 1, 1970.

Sections provided for making, filing, compiling, codification and publication of rules and regulations of state officers, boards, departments, agencies and commissions, and for defining and limiting their rule making power.

24.82 Repealed. 1964, p. 199, Act 161, Eff. Aug. 28.

Section was an effective date section.

24.101-24.110 Repealed. 1969, p. 575, Act 306, Eff. Jul. 1, 1970.

Sections prescribed rights of public in administrative procedure before state administrative agencies.

Act 187, 1953, p. 249; Eff. Oct. 2.

AN ACT to authorize departments and agencies of the state to have printed pamphlets containing reprints of the laws administered by such departments or agencies.

The People of the State of Michigan enact:

24.151 Reprint of laws authorized.

Sec. 1. All departments and agencies of the state charged with the administration of laws of the state are hereby authorized to have printed and bound pamphlets containing reprints of the laws or portions of such laws which are administered by such department or agency. Such pamphlets may include indexes and citations to opinions of the courts or the attorney general.

HISTORY: New 1953, p. 249, Act 187, Eff. Oct. 2.

24.152 Reprints; sale, price; exceptions.

Sec. 2. All pamphlets so printed shall be paid for from appropriations to the department or agency made by the legislature for that purpose. All copies of such pamphlets furnished to any other agency or department of the state government, or to any politi-

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cal subdivisions of the state or to the public at large, shall be sold at a price not less than the cost of printing and binding such pamphlet and the cost of distribution. The price to be so charged shall be fixed by the executive head of the department or agency and printed on the cover of such pamphlet: Provided, however, That no charge shall be made for pamphlets or digests of laws relating to conservation distributed to hunters, fishermen, agencies charged with the enforcement of the laws contained therein, prosecuting attorneys, agencies of other states, the United States or of any foreign government, and judges, justices and magistrates of the various courts in this state, or for copies of tax laws or workmen's compensation laws furnished on request to a person subject to such laws or to his duly authorized agent.

HISTORY: New 1953, p. 249, Act 187, Eff. Oct. 2;—Am. 1955, p. 215, Act 148, Imd. Eff. Jun. 7.

24.153 Reprints; distribution, ownership.

Sec. 3. Copies of such pamphlets, to be used in the official work of the agency, may be furnished to officers and employees without charge therefor, but any pamphlet so furnished shall be marked as and remain the property of the department, and the established price shall be paid by the employee or officer if such pamphlet is lost or destroyed through carelessness or negligence: Provided, That publications required by law to be distributed without charge to the recipient shall be so distributed notwithstanding the requirements of this act.

HISTORY: New 1953, p. 250, Act 187, Eff. Oct. 2.

24.154 Reprints; receipts of sale, deposit.

Sec. 4. All moneys received by any department or agency from the sale of pamphlets as herein provided shall be deposited in the general fund of the state of Michigan.

HISTORY: New 1953, p. 250, Act 187, Eff. Oct. 2.

24.155 Reprints not to be credited to individual.

Sec. 5. Pamphlets printed pursuant to this act shall not bear the name of any official or employee nor shall the publication be credited to any individual or individual by name.

HISTORY: New 1953, p. 250, Act 187, Eff. Oct. 2.

Act 306, 1969, p. 562; Eff. Jul. 1, 1970.

AN ACT to provide for the effect, processing, promulgation, publication and inspection of state agency rules, determinations and other matters; to provide for state agency administrative procedures and contested cases and appeals therefrom in licensing and other matters; to provide for declaratory judgments as to rules; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 1. GENERAL PROVISIONS

24.201 Administrative procedures; short title.

Sec. 1. This act shall be known and may be cited as the "administrative procedures act of 1969".

HISTORY: New 1969, p. 562, Act 306, Eff. Jul. 1, 1970.

24.203 Administrative procedures act; definitions.

Sec. 3. (1) "Adoption of a rule" means that step in the processing of a rule consisting of the formal action of an agency establishing a rule before its promulgation.

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(2) "Agency" means a state department, bureau, division, section, board, commission, trustee, authority or officer, created by the constitution, statute or agency action. It does not include an agency in the legislative or judicial branches of state government, the governor, an agency having direct governing control over an institution of higher education, or the state civil service commission.

(3) "Contested case" means a proceeding, including but not limited to rate-making, price-fixing and licensing, in which a determination of the legal rights, duties or privileges of a named party is required by law to be made by an agency after an opportunity for an evidentiary hearing. When a hearing is held before an agency and an appeal from its decision is taken to another agency, the hearing and the appeal are deemed to be a continuous proceeding as though before a single agency.

(4) "Court" means the circuit court.

HISTORY: New 1969, p. 562, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. Jul. 1.

24.205 Definitions L to P.

Sec. 5. (1) "License" includes the whole or part of an agency permit, certificate, approval, registration, charter or similar form of permission required by law, but does not include a license required solely for revenue purposes, or a license or registration issued under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

(2) "Licensing" includes agency activity involving the grant, denial, renewal, suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license.

(3) "Party" means a person or agency named or admitted, or properly seeking and entitled of right to be admitted, as a party in a contested case.

(4) "Person" means an individual, partnership, association, corporation, governmental subdivision or public or private organization of any kind other than the agency engaged in the particular processing of a rule, declaratory ruling or contested case.

(5) "Processing of a rule" means all action required or authorized by this act as to a rule which is to be promulgated, including its adoption, and ending with its promulgation.

(6) "Promulgation of a rule" means that step in the processing of a rule consisting of the filing of a rule with the secretary of state.

HISTORY: New 1969, p. 563, Act 306, Eff. Jul. 1, 1970.

24.207 Definition of rule.

Sec. 7. "Rule" means an agency regulation, statement, standard, policy, ruling or instruction of general applicability, which implements or applies law enforced or administered by the agency, or which prescribes the organization, procedure or practice of the agency, including the amendment, suspension or rescission thereof, but does not include the following:

(a) A resolution or order of the state administrative board.

(b) A formal opinion of the attorney general.

(c) A rule or order establishing or fixing rates or tariffs.

(d) A rule or order pertaining to game and fish and promulgated under Act No. 230 of the Public Acts of 1925, as amended, being sections 300.1 to 300.5 of the Compiled Laws of 1948, Act No. 165 of the Public Acts of 1929, as amended, being sections 301.1 to 306.3 of the Compiled Laws of 1948 and Act No. 286 of the Public Acts of 1929, as amended, being sections 311.1 to 315.2 of the Compiled Laws of 1948.

(e) A rule relating to the use of streets or highways the substance of which is indicated to the public by means of signs or signals.

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(f) A determination, decision or order in a contested case.

(g) An intergovernmental, interagency or intra-agency memorandum, directive or communication which does not affect the rights of, or procedures and practices available to, the public.

(h) A form with instructions, an interpretive statement, a guideline, an informational pamphlet or other material which in itself does not have the force and effect of law but is merely explanatory.

(i) A declaratory ruling or other disposition of a particular matter as applied to a specific set of facts involved.

(j) A decision by an agency to exercise or not to exercise a permissive statutory power, although private rights or interests are affected thereby.

HISTORY: New 1969, p. 563, Act 306, Eff. Jul. 1, 1970.

24.211 Construction of act.

Sec. 11. This act shall not be construed to repeal additional requirements imposed by law.

HISTORY: New 1969, p. 563, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 96, Act 40, Imd. Eff. Jul. 1.

CHAPTER 2. PUBLIC INSPECTION

24.221 Agency rules, determinations and other documents; publication, inspection, copying.

Sec. 21. (1) An agency shall publish and make available for public inspection and copying during its business hours or on subscription on request of any person:

(a) Final orders or decisions in contested cases and the records on which they were made.

(b) Promulgated rules.

(c) Other written statements which implement or interpret law, rules or policy, including but not limited to guidelines, manuals and forms with instructions, adopted or used by the agency in the discharge of its functions.

(2) To the extent required to prevent an unwarranted invasion of personal privacy, an agency may delete identifying details when it publishes or makes available a matter required to be published and made available for public inspection.

(3) The publications may be in pamphlet, loose-leaf or other appropriate form in printed, mimeographed or other written manner. Except as otherwise provided by law, the agency may charge not more than cost for each copy of the publication.

HISTORY: New 1969, p. 563, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 96, Act 40, Imd. Eff. Jul. 1.

24.222 Exemptions.

Sec. 22. (1) This chapter does not apply to:

(a) Material exempted from disclosure by statute.

(b) Interagency or intra-agency letters, memoranda or statements which would not be available by law to a party other than an agency in litigation with the agency and which, if disclosed, would impede the agency in the discharge of its functions.

(c) Material obtained in confidence from a person, matter privileged by law and trade secrets.

(d) Financial and commercial information relating to a specific regulated person prepared by or for the use of an agency responsible for the regulation or supervision of the person.

(e) Investigatory materials compiled or used for regulatory or law enforcement purposes except to the extent available by law to a party to a contested case.

(f) Material the disclosure of which would constitute an unwarranted invasion of privacy.

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(2) This chapter does not authorize the withholding of information otherwise required by law to be made available to the public or to a party in a contested case.

HISTORY: New 1969, p. 564, Act 306, Eff. Jul. 1, 1970.

24.223 Noncompliance of agency; effect, procedure.

Sec. 23. (1) Except to the extent that a person has actual and timely notice of the terms thereof, a person shall not in any manner be required to resort to, or be adversely affected by, a matter required to be published and made available and not so published and made available.

(2) The circuit court for the county in which the agency records are situated may order, on petition of any person, the production of any identifiable material improperly withheld from public inspection and copying.

HISTORY: New 1969, p. 564, Act 306, Eff. Jul. 1, 1970.

CHAPTER 3. PROCEDURES FOR PROCESSING AND PUBLISHING RULES

24.231 Rules; continuation, amendment, rescission.

Sec. 31. (1) Rules which became effective before July 1, 1970 continue in effect until amended or rescinded.

(2) When a law authorizing or directing an agency to promulgate rules is repealed and substantially the same rule-making power or duty is vested in the same or a successor agency by a new provision of law or the function of the agency to which the rules are related is transferred to another agency, by law or executive order, the existing rules of the original agency relating thereto continue in effect until amended or rescinded, and the agency or successor agency may rescind any rule relating to the function. When a law creating an agency or authorizing or directing it to promulgate rules is repealed or the agency is abolished and substantially the same rule-making power or duty is not vested in the same or a successor agency by a new provision of law and the function of the agency to which the rules are related is not transferred to another agency, the existing applicable rules of the original agency are automatically rescinded as of the effective date of the repeal of such law or the abolition of the agency.

(3) The rescission of a rule does not revive a rule which was previously rescinded.

(4) The amendment or rescission of a valid rule does not defeat or impair a right accrued, or affect a penalty incurred, under the rule.

(5) A rule may be amended or rescinded by another rule which constitutes the whole or a part of a filing of rules or as a result of an act of the legislature.

HISTORY: New 1969, p. 564, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 96, Act 40, Imd. Eff. Jul. 1.

24.232 Statutory construction rules; discrimination; crimes; adoption by reference.

Sec. 32. (1) Definitions of words and phrases and rules of construction prescribed in any statute, and which are made applicable to all statutes of this state, also apply to rules unless clearly indicated to the contrary.

(2) A rule or exception to a rule shall not discriminate in favor of or against any person, and a person affected by a rule is entitled to the same benefits as any other person under the same or similar circumstances.

(3) The violation of a rule is a crime when so provided by statute. A rule shall not make an act or omission to act a crime or prescribe a criminal penalty for violation of a rule.

(4) An agency may adopt, by reference in its rules and without publishing the adopted matter in full, all or any part of a code, standard or regulation which has been adopted by an agency of the United States or by a nationally recognized organization or association. The reference shall fully identify the adopted matter by date and other-

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wise. The reference shall not cover any later amendments and editions of the adopted matter, but if the agency wishes to incorporate them in its rule it shall amend the rule or promulgate a new rule therefor. The agency shall have available copies of the adopted matter for inspection and distribution to the public at cost and the rules shall state where copies of the adopted matter are available from the agency and the agency of the United States or the national organization or association and the cost thereof as of the time the rule is adopted.

HISTORY: New 1969, p. 564, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 97, Act 40, Imd. Eff. Jul. 1.

24.233 Organization, operations and procedures rules.

Sec. 33. (1) An agency shall promulgate rules describing its organization and stating the general course and method of its operations and may include therein forms with instructions. Sections 41 and 42 do not apply to such rules.

(2) An agency shall promulgate rules prescribing its procedures available to the public and the methods by which the public may obtain information and submit requests.

(3) An agency may promulgate rules, not inconsistent with this act or other applicable statutes, prescribing procedures for contested cases.

HISTORY: New 1969, p. 565, Act 306, Eff. Jul. 1, 1970.

24.235 Joint legislative committee on administrative rules; membership, terms, expenses, meetings, reports.

Sec. 35. The joint committee on administrative rules is created and consists of 3 members of the senate and 5 members of the house of representatives appointed in the same manner as standing committees are appointed for terms of 2 years. Members of the committee shall serve without compensation but shall be reimbursed for expenses incurred in the business of the committee, the expenses of the members of the senate to be paid from appropriations to the senate and the expenses of the members of the house to be paid from appropriations to the house of representatives. The committee may meet during a session of the legislature and during an interim between sessions. The committee may hold a hearing on a rule transmitted to it. Action by the committee, including that under section 52, shall be by concurring majorities of the members from each house. The committee shall report its activities and recommendations to the legislature at each regular session.

HISTORY: New 1969, p. 565, Act 306, Eff. Jul. 1, 1970.

24.236 Joint committee on administrative rule procedures and standards for rules.

Sec. 36. The joint committee on administrative rules may prescribe procedures and standards not inconsistent with this act or other applicable statutes, for the drafting, processing, publication and distribution of rules. The procedures and standards shall be included in a manual which the legislative service bureau shall publish and distribute in reasonable quantities to the state departments.

HISTORY: New 1969, p. 565, Act 306, Eff. Jul. 1, 1970.

24.238 Filing of requests by individuals for promulgation of certain rules.

Sec. 38. A person may request an agency to promulgate a rule. Within 90 days after filing of a request, the agency shall initiate the processing of a rule or issue a concise written statement of its principal reasons for denial of the request. The denial of a request is not subject to judicial review.

HISTORY: New 1969, p. 565, Act 306, Eff. Jul. 1, 1970.

24.241 Notice of public hearing held prior to adoption of rule; time, contents, distribution.

Sec. 41. (1) Before the adoption of a rule an agency shall give notice of a public hearing and offer any person an opportunity to present data, views and arguments.

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The notice shall be given within the time prescribed by any applicable statute, or if none then at least 10 days before the public hearing and at least 20 days before the adoption of the rule. The notice shall include:

(a) A reference to the statutory authority under which the action is proposed.

(b) The time and place of the public hearing and a statement of the manner in which data, views and arguments may be submitted to the agency at other times by any person.

(c) A statement of the terms or substance of the proposed rule or a description of the subjects and issues involved, and the proposed effective date of the rule.

(2) The agency shall transmit copies of the notice to the joint committee on administrative rules, the legislative service bureau, the office of the governor and all persons who have requested the agency in writing for advance notice of proposed action which may affect them. The notices shall be by mail or otherwise in writing to the last address specified by the person. Requests for notices shall be renewed each December.

(3) The public hearing shall comply with any applicable statute but is not subject to the provisions of this act governing contested cases, unless a rule is required by law to be adopted pursuant to adjudicatory procedures.

HISTORY: New 1969, p. 566, Act 306, Eff. Jul. 1, 1970.

24.242 Notice of public hearings on rules; publication of notice.

Sec. 42. The agency shall publish the notice as prescribed in any applicable statute, or if none then in a manner selected by the agency as best calculated to give notice to persons likely to be affected by the proposed rule. Methods that may be employed by the agency, depending upon the circumstances, include publication of the notice in 1 or more newspapers of general circulation or, when appropriate, in trade, industry, governmental or professional publications. If the persons likely to be affected by the proposed rule are unorganized or diffuse in character and location then the agency shall publish the notice as a display advertisement in at least 3 newspapers of general circulation in different parts of the state, 1 of which shall be published in the Upper Peninsula.

HISTORY: New 1969, p. 566, Act 306, Eff. Jul. 1, 1970.

24.243 Notice of public hearings on rules; noncompliance with requirements; contest for noncompliance.

Sec. 43. (1) A rule hereafter promulgated is not valid unless processed in substantial compliance with sections 41 and 42. However, inadvertent failure to give the notice to any person as required by section 41 does not invalidate a rule processed thereunder.

(2) A proceeding to contest a rule on the ground of noncompliance with the procedural requirements of sections 41 and 42 shall be commenced within 2 years after the effective date of the rule.

HISTORY: New 1969, p. 566, Act 306, Eff. Jul. 1, 1970.

24.244 Notice of public hearings on rules; exceptions to requirements.

Sec. 44. Sections 41 and 42 do not apply to an amendment or rescission of a rule which is obsolete or superseded, or which is required to make obviously needed corrections to make the rule conform to an amended or new statute or to accomplish any other solely formal purpose, if a statement to such effect is included in the legislative service bureau certificate of approval of the rule.

HISTORY: New 1969, p. 566, Act 306, Eff. Jul. 1, 1970.

24.245 Approval and formal adoption of rules.

Sec. 45. (1) The legislative service bureau shall promptly approve the rules in a proposed filing when it deems them proper as to all matters of form, classification, ar-

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rangement and numbering. The department of the attorney general shall promptly approve the rules when it deems them to be legal. Thereafter the agency shall formally adopt the rules, in accordance with any applicable statute, and make a written record thereof. Certificates of such approval and adoption shall be attached to at least 6 copies of the rules.

(2) On formal adoption of a rule, an agency, if requested to do so by an interested person either before or within 30 days after the hearing, shall issue a concise written statement of the principal reasons for its action.

HISTORY: New 1969, p. 566, Act 306, Eff. Jul. 1, 1970.

24.246 Filing and preservation of rules.

Sec. 46. (1) To promulgate a rule an agency shall file in the office of the secretary of state 3 copies of the rule bearing such certificates of approval and adoption and true copies of the rule without the certificates. An agency shall not file a rule, except an emergency rule under section 48, until at least 10 days after the date of the certificate of approval by the legislative service bureau. An agency shall transmit a copy of the rule to the office of the governor at least 10 days before it files the rule.

(2) The secretary of state shall indorse the date and hour of filing of rules on the 3 copies of the filing bearing the certificates and shall maintain a file containing 1 copy for public inspection.

(3) The secretary of state, as often as he deems it advisable, shall cause to be arranged and bound in a substantial manner the rules hereafter filed in his office with their attached certificates and published in a supplement to the Michigan administrative code. He shall certify under his hand and seal of the state on the frontispiece of each volume that it contains all of the rules filed and published for a specified period. The rules, when so bound and certified, shall be kept in the office of the secretary of state and no further record thereof is required to be kept. The bound rules are subject to public inspection.

HISTORY: New 1969, p. 567, Act 306, Eff. Jul. 1, 1970.

24.247 Effective dates and withdrawal of rules.

Sec. 47. (1) Subject to the requirements of chapter 2 a rule becomes effective on the date fixed in the rule, which shall not be before its promulgation, or if a date is not fixed then on its date of publication in the Michigan administrative code or a supplement thereto.

(2) Except in case of a rule processed under section 48, an agency may withdraw a promulgated rule which has not become effective by a written request stating reasons, (a) to the secretary of state on or before the last day for filing rules for the interim period in which the rules were first filed, or (b) to the secretary of state and the legislative service bureau, within a reasonable time as determined by the bureau, after the last day for filing and before publication of the rule in the next supplement to the code. In any other case an agency may abrogate its rule only by rescission.

HISTORY: New 1969, p. 567, Act 306, Eff. Jul. 1, 1970.

24.248 Emergency rules, promulgation.

Sec. 48. (1) If an agency finds that preservation of the public health, safety or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule its reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of such procedures and file in the office of the secretary of state the copies prescribed by section 46 indorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed therein or 6 months after the date

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of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by filing of a governor's certificate of the need for such extension with the office of the secretary of state before expiration of the emergency rule. An emergency rule shall not be numbered and compiled in a supplement to the Michigan administrative code, but shall be noted therein.

(2) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, it shall comply with procedures prescribed by this act for processing of a rule which is not an emergency rule. Such rule shall be published in a supplement to the code.

HISTORY: New 1969, p. 567, Act 306, Eff. Jul. 1, 1970.

24.249 Filed rules; distribution.

Sec. 49. (1) The secretary of state shall transmit or mail forthwith, after copies of rules are filed in his office, copies on which the day and hour of such filing have been indorsed, as follows:

(a) To the secretary of the joint committee on administrative rules and the legislative service bureau.

(b) To the secretary of the senate and the clerk of the house of representatives for distribution by them to each member of the senate and the house of representatives. When the legislature is not in session, or is in session but will not meet for more than 10 days after the secretary and clerk have received the rules, the secretary and clerk shall mail 1 copy to each member of the legislature at his home address.

(2) The secretary of the senate and clerk of the house of representatives shall present the rules to the senate and the house of representatives.

HISTORY: New 1969, p. 567, Act 306, Eff. Jul. 1, 1970.

24.250 Legislative standing committees; functions.

Sec. 50. When the legislature is in session the joint committee shall notify the appropriate standing committee of each house of the legislature when rules have been transmitted to the committee by the secretary of state. If the joint committee determines that a hearing on such rules is to be held it shall notify the chairmen of the standing committees and all members of the standing committees may be present and take part in the hearing. The chairman or a designated member of the standing committee should be present at the hearing but their absence does not affect the validity of the hearing.

HISTORY: New 1969, p. 568, Act 306, Eff. Jul. 1, 1970.

24.251 Amendment and rescission of rules by legislature.

Sec. 51. If the joint committee on administrative rules, an appropriate standing committee or a member of the legislature believes that a promulgated rule or any part thereof is unauthorized, is not within legislative intent or is inexpedient, the committee or member may do either or both of the following:

(a) Introduce a concurrent resolution at a regular or special session of the legislature expressing the determination of the legislature that the rule should be amended or rescinded. Adoption of the concurrent resolution constitutes legislative disapproval of the rule, but rejection of the resolution does not constitute legislative approval of the rule.

(b) Introduce a bill at a regular session, or special session if included in a governor's message, which in effect amends or rescinds the rule.

HISTORY: New 1969, p. 568, Act 306, Eff. Jul. 1, 1970.

24.252 Suspension of rules by joint committee on administrative rules.

Sec. 52. If authorized by concurrent resolution of the legislature, the joint committee on administrative rules, acting between regular sessions, may suspend a rule or any part thereof promulgated during the interim between regular sessions. The committee

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shall notify the agency promulgating the rule, the secretary of state, the department of administration and the legislative service bureau of any rule or part thereof it suspends, and the rule or part thereof shall not be published in the Michigan administrative code while so suspended. A rule suspended by the committee continues to be suspended until the end of the next regular session.

HISTORY: New 1969, p. 568, Act 306, Eff. Jul. 1, 1970.

24.255 Publication of rules as Michigan administrative code and supplements thereto.

Sec. 55. (1) The department of administration shall publish interim supplements to the Michigan administrative code periodically but not less frequently than quarterly, and annual supplements. An interim supplement shall contain all rules filed in a period ending 30 days before the end of the preceding interim, a table of contents, a publication date and the interim period covered by the rules contained therein. An annual supplement shall contain all rules published in the interim supplements for the preceding year, cumulative numerical listing of amendments and additions to, and rescissions of, rules since the last publication of the code and a cumulative alphabetical index.

(2) The legislative service bureau may adopt a system of supplements, and necessary adjustments, which do not coincide with a calendar year or which would eliminate publication of a final interim supplement for any annual period by publication of the rules therefor in the annual supplement for that period.

(3) The department of administration shall publish, as often as appropriations are available, all rules promulgated by each agency and remaining in effect in a publication to be known as the Michigan administrative code.

HISTORY: New 1969, p. 568, Act 306, Eff. Jul. 1, 1970.

24.256 Publication of rules; editorial work, form, time.

Sec. 56. (1) The legislative service bureau shall perform the editorial work for the Michigan administrative code and its interim and annual supplements so that the classification, arrangement, numbering and indexing of rules will be uniform and conform as nearly as practical to those of the compiled laws. The bureau may correct in the publications obvious errors in rules when requested by the promulgating agency to do so. The bureau may provide for publishing all or any part of the code in pamphlet or loose leaf form.

(2) An interim supplement shall be published not later than 45 days after the end of the interim period covered thereby. An annual supplement shall be published at the earliest practicable date.

HISTORY: New 1969, p. 569, Act 306, Eff. Jul. 1, 1970.

24.257 Publication of rules; omissions permitted; cost of publication.

Sec. 57. (1) The legislative service bureau may omit from the Michigan administrative code or its supplements, or any of them, any rule, the publication of which would be unduly expensive, lengthy or of interest to relatively few persons, if the rule in printed or reproduced form is made available on application to the promulgating agency, and if the code publication contains a notice stating the general subject of the omitted rule and how a copy thereof may be obtained.

(2) The cost of publishing and printing interim and annual supplements shall be prorated by the department of administration on the basis of the volume of rules of each agency included in the supplements, and the cost thereof shall be paid out of appropriations to the agencies.

HISTORY: New 1969, p. 569, Act 306, Eff. Jul. 1, 1970.

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24.258 Publication of rules; retention of type; printing separate pamphlets for agencies.

Sec. 58. (1) The legislative service bureau shall acquire and maintain those parts of the type used in printing the Michigan administrative code and its supplements for rules currently in effect. Any part of such type shall be used in printing for the agency such parts of the rules, with reimbursement for the expense of such use, as may be agreed by the agency and the bureau.

(2) The code shall be arranged and printed so as to make convenient the publication in separate pamphlets of the parts of the code relating to different agencies. Agencies may order such separate pamphlets and the cost thereof shall be paid out of appropriations to the agencies.

HISTORY: New 1969, p. 569, Act 306, Eff. Jul. 1, 1970.

24.259 Publication of rules; distribution.

Sec. 59. (1) The department of administration shall order printed a sufficient number of copies of the Michigan administrative code and its supplements to meet the requirements of this section. The department shall deliver or mail copies as follows:

(a) To the secretary of the senate a sufficient number to supply each senator, standing committee and such secretary.

(b) To the clerk of the house of representatives a sufficient number to supply each representative, standing committee and such clerk.

(c) To each member of the legislature 1 copy at his home address.

(d) To the legislative service bureau 1 copy for each attorney on its staff.

(e) To the department of the attorney general 25 copies.

(f) To each other state department 3 copies.

(g) To each county law library, bar association library and law school library in this state 1 copy.

(h) Additional copies to such officers and agencies and any other governmental officers and agencies and libraries when approved by the legislative service bureau.

(2) Such copies are for official use only by such agencies and persons and they shall deliver them to their successors, except that members of the legislature may retain copies of the code sent to their home addresses. The department of administration shall send to the home address of a new member of the legislature a complete copy of the code. The department shall deliver to the state library copies of the code and its supplement when requested by it sufficient for its use and for exchanges. The department shall hold additional copies for sale at a price not less than publication cost which shall be determined by the department.

HISTORY: New 1969, p. 569, Act 306, Eff. Jul. 1, 1970.

24.261 Filing and publication of rules; presumptions arising therefrom; judicial notice.

Sec. 61. (1) The filing of a rule under this act raises a rebuttable presumption that the rule was duly adopted, filed with the secretary of state, and made available for public inspection as required by this act.

(2) The publication of a rule in the Michigan administrative code or a supplement raises a rebuttable presumption that:

(a) The rule was duly adopted, filed with the secretary of state, and made available for public inspection as required by this act.

(b) The rule printed in the publication is a true and correct copy of the promulgated rule.

(c) All requirements of this act relative to such rule have been complied with.

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(3) The courts shall take judicial notice of a rule which becomes effective under this act.

HISTORY: New 1969, p. 570, Act 306, Eff. Jul. 1, 1970.

24.263 Declaratory ruling by agency as to applicability of rule.

Sec. 63. On request of an interested person, an agency may issue a declaratory ruling as to the applicability to an actual state of facts of a statute administered by the agency or of a rule or order of the agency. An agency shall prescribe by rule the form for such a request and procedure for its submission, consideration and disposition. A declaratory ruling is binding on the agency and the person requesting it unless it is altered or set aside by any court. An agency may not retroactively change a declaratory ruling, but nothing in this subsection prevents an agency from prospectively changing a declaratory ruling. A declaratory ruling is subject to judicial review in the same manner as an agency final decision or order in a contested case.

HISTORY: New 1969, p. 570, Act 306, Eff. Jul. 1, 1970.

24.264 Declaratory judgment as to validity or applicability of rule.

Sec. 64. Unless an exclusive procedure or remedy is provided by a statute governing the agency, the validity or applicability of a rule may be determined in an action for declaratory judgment when the court finds that the rule or its threatened application interferes with or impairs, or imminently threatens to interfere with or impair, the legal rights or privileges of the plaintiff. The action shall be filed in the circuit court of the county where the plaintiff resides or has his principal place of business in this state or in the circuit court for Ingham county. The agency shall be made a party to the action. An action for declaratory judgment may not be commenced under this section unless the plaintiff has first requested the agency for a declaratory ruling and the agency has denied the request or failed to act upon it expeditiously. This section shall not be construed to prohibit the determination of the validity or applicability of the rule in any other action or proceeding in which its invalidity or inapplicability is asserted.

HISTORY: New 1969, p. 570, Act 306, Eff. Jul. 1, 1970.

CHAPTER 4. PROCEDURES IN CONTESTED CASES

24.271 Contested cases; time and notice of hearings.

Sec. 71. (1) The parties in a contested case shall be given an opportunity for a hearing without undue delay.

(2) The parties shall be given a reasonable notice of the hearing, which notice shall include:

(a) A statement of the date, hour, place and nature of the hearing. Unless otherwise specified in the notice the hearing shall be held at the principal office of the agency.

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c) A reference to the particular sections of the statutes and rules involved.

(d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is given, the initial notice may state the issues involved. Thereafter on application the agency or other party shall furnish a more definite and detailed statement on the issues.

HISTORY: New 1969, p. 570, Act 306, Eff. Jul. 1, 1970.

24.272 Defaults, written answers, evidence, argument, cross-examination.

Sec. 72. (1) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

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(2) A party who has been served with a notice of hearing may file a written answer before the date set for hearing.

(3) The parties shall be given an opportunity to present oral and written arguments on issues of law and policy and an opportunity to present evidence and argument on issues of fact.

(4) A party may cross-examine a witness, including the author of a document prepared by, on behalf of, or for use of the agency and offered in evidence. A party may submit rebuttal evidence.

HISTORY: New 1969, p. 571, Act 306, Eff. Jul. 1, 1970.

24.273 Subpoenas; issuance; revocation.

Sec. 73. An agency authorized by statute to issue subpoenas, when a written request is made by a party in a contested case, shall issue subpoenas forthwith requiring the attendance and testimony of witnesses and the production of evidence including books, records, correspondence and documents in their possession or under their control. On written request, the agency shall revoke a subpoena if the evidence, the production of which is required, does not relate to a matter in issue, or if the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. Witness fees shall be paid to subpoenaed witnesses in accordance with section 2552 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.2552 of the Compiled Laws of 1948. In case of refusal to comply with a subpoena, the party on whose behalf it was issued may file a petition, in the circuit court for Ingham county or for the county in which the agency hearing is held, for an order requiring compliance.

HISTORY: New 1969, p. 571, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 97, Act 40, Imd. Eff. Jul. 1.

24.274 Oaths; depositions; disclosure of agency records.

Sec. 74. (1) An officer of an agency may administer an oath or affirmation to a witness in a matter before the agency, certify to official acts and take depositions. A deposition may be used in lieu of other evidence when taken in compliance with the general court rules. An agency authorized to adjudicate contested cases may adopt rules providing for discovery and depositions to the extent and in the manner appropriate to its proceedings.

(2) An agency that relies on a witness in a contested case, whether or not an agency employee, who has made prior statements or reports with respect to the subject matter of his testimony, shall make such statements or reports available to opposing parties for use on cross-examination. On a request for identifiable agency records, with respect to disputed material facts involved in a contested case, except records related solely to the internal procedures of the agency or which are exempt from disclosure by law, an agency shall make such records promptly available to a party.

HISTORY: New 1969, p. 571, Act 306, Eff. Jul. 1, 1970.

24.275 Evidence; admissibility, objections, submission in written form.

Sec. 75. In a contested case the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but an agency may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, an agency, for the purpose of expediting hearings and

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when the interests of the parties will not be substantially prejudiced thereby, may provide in a contested case or by rule for submission of all or part of the evidence in written form.

HISTORY: New 1969, p. 571, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 97, Act 40, Imd. Eff. Jul. 1.

24.276 Evidence to be entered on record; documentary evidence.

Sec. 76. Evidence in a contested case, including records and documents in possession of an agency of which it desires to avail itself, shall be offered and made a part of the record. Other factual information or evidence shall not be considered in determination of the case, except as permitted under section 77. Documentary evidence may be received in the form of a copy or excerpt, if the original is not readily available, or may be incorporated by reference, if the materials so incorporated are available for examination by the parties. Upon timely request, a party shall be given an opportunity to compare the copy with the original when available.

HISTORY: New 1969, p. 572, Act 306, Eff. Jul. 1, 1970.

24.277 Official notice of facts; evaluation of evidence.

Sec. 77. An agency in a contested case may take official notice of judicially cognizable facts, and may take notice of general, technical or scientific facts within the agency's specialized knowledge. The agency shall notify parties at the earliest practicable time of any noticed fact which pertains to a material disputed issue which is being adjudicated, and on timely request the parties shall be given an opportunity before final decision to dispute the fact or its materiality. An agency may use its experience, technical competence and specialized knowledge in the evaluation of evidence presented to it.

HISTORY: New 1969, p. 572, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. Jul. 1.

24.278 Stipulations; disposition of cases, methods.

Sec. 78. (1) The parties in a contested case by a stipulation in writing filed with the agency may agree upon any fact involved in the controversy, which stipulation shall be used as evidence at the hearing and be binding on the parties thereto. Parties are requested to thus agree upon facts when practicable.

(2) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties.

HISTORY: New 1969, p. 572, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. Jul. 1.

24.279 Presiding officers; designation; disqualification, inability.

Sec. 79. An agency, 1 or more members of the agency, a person designated by statute or 1 or more hearing officers designated and authorized by the agency to handle contested cases, shall be presiding officers in contested cases. Hearings shall be conducted in an impartial manner. On the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of a presiding officer, the agency shall determine the matter as a part of the record in the case, and its determination shall be subject to judicial review at the conclusion of the proceeding. When a presiding officer is disqualified or it is impracticable for him to continue the hearing, another presiding officer may be assigned to continue with the case unless it is shown that substantial prejudice to the party will result therefrom.

HISTORY: New 1969, p. 572, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. Jul. 1.

24.280 Presiding officer; powers.

Sec. 80. A presiding officer may:

(a) Administer oaths and affirmations.

(b) Sign and issue subpoenas in the name of the agency, requiring attendance and

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giving of testimony by witnesses and the production of books, papers and other documentary evidence.

(c) Provide for the taking of testimony by deposition.

(d) Regulate the course of the hearings, set the time and place for continued hearings and fix the time for filing of briefs and other documents.

(e) Direct the parties to appear and confer to consider simplification of the issues by consent of the parties.

HISTORY: New 1969, p. 572, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. Jul. 1.

24.281 Proposals for decision; contents.

Sec. 81. (1) When the official or a majority of the officials of the agency who are to make a final decision have not heard a contested case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served on the parties, and an opportunity is given to each party adversely affected to file exceptions and present written arguments to the officials who are to make the decision. Oral argument may be permitted with consent of the agency.

(2) The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact and law necessary to the proposed decision, prepared by a person who conducted the hearing or who has read the record.

(3) The decision, without further proceedings, shall become the final decision of the agency in the absence of the filing of exceptions or review by action of the agency within the time provided by rule. On appeal from or review of a proposal of decision the agency, except as it may limit the issue upon notice or by rule, shall have all the powers which it would have if it had presided at the hearing.

(4) The parties, by written stipulation or at the hearing, may waive compliance with this section.

HISTORY: New 1969, p. 573, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 98, Act 40, Imd. Eff. Jul. 1.

24.282 Communications by agency staff; limitations; exceptions.

Sec. 82. Unless required for disposition of an ex parte matter authorized by law, a member or employee of an agency assigned to make a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except on notice and opportunity for all parties to participate. This prohibition begins at the time of the notice of hearing. An agency member may communicate with other members of the agency and may have the aid and advice of the agency staff other than the staff which has been or is engaged in investigating or prosecuting functions in connection with the case under consideration or a factually related case. This section does not apply to an agency employee, or party representative with professional training in accounting, actuarial science, economics, financial analysis or rate-making, in a contested case before the financial institutions bureau, the insurance bureau or the public service commission insofar as the case involves rate-making or financial practices or conditions.

HISTORY: New 1969, p. 573, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 99, Act 40, Imd. Eff. Jul. 1.

24.285 Final decisions and orders.

Sec. 85. A final decision or order of an agency in a contested case shall be made, within a reasonable period, in writing or stated in the record and shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them. If a party submits proposed findings of fact which would con-

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trol the decision or order, the decision or order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by authority or reasoned opinion. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material and substantial evidence. A copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

HISTORY: New 1969, p. 573, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 99, Act 40, Imd. Eff. Jul. 1.

24.286 Official records of hearings.

Sec. 86. (1) An agency shall prepare an official record of a hearing which shall include:

(a) Notices, pleadings, motions and intermediate rulings.

(b) Questions and offers of proof, objections and rulings thereon.

(c) Evidence presented.

(d) Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose.

(e) Proposed findings and exceptions.

(f) Any decision, opinion, order or report by the officer presiding at the hearing and by the agency.

(2) Oral proceedings at which evidence is presented shall be recorded, but need not be transcribed unless requested by a party who shall pay for the transcription of the portion requested except as otherwise provided by law.

HISTORY: New 1969, p. 573, Act 306, Eff. Jul. 1, 1970.

24.287 Rehearings.

Sec. 87. (1) An agency may order a rehearing in a contested case on its own motion or on request of a party.

(2) Where for justifiable reasons the record of testimony made at the hearing is found by the agency to be inadequate for purposes of judicial review, the agency on its own motion or on request of a party shall order a rehearing.

(3) A request for a rehearing shall be filed within the time fixed by this act for instituting proceedings for judicial review. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for agency reconsideration and for judicial review. A decision or order may be amended or vacated after the rehearing.

HISTORY: New 1969, p. 573, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 99, Act 40, Imd. Eff. Jul. 1.

CHAPTER 5. LICENSES

24.291 Licensing; applicability of contested case provisions; expiration of license.

Sec. 91. (1) When licensing is required to be preceded by notice and an opportunity for hearing, the provisions of this act governing a contested case apply.

(2) When a licensee makes timely and sufficient application for renewal of a license or a new license with reference to activity of a continuing nature, the existing license does not expire until a decision on the application is finally made by the agency, and if the application is denied or the terms of the new license are limited, until the last day for applying for judicial review of the agency order or a later date fixed by order of the reviewing court. This subsection does not affect valid agency action then in effect summarily suspending such license under section 92.

HISTORY: New 1969, p. 574, Act 306, Eff. Jul. 1, 1970.

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24.292 Licenses; suspension, revocation, amendment proceedings.

Sec. 92. Before the commencement of proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license, an agency shall give notice, personally or by mail, to the licensee of facts or conduct which warrant the intended action. The licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license. If the agency finds that the public health, safety or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license may be ordered effective on the date specified in the order or on service of a certified copy of the order on the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.

HISTORY: New 1969, p. 574, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 100, Act 40, Imd. Eff. Jul. 1.

CHAPTER 6. JUDICIAL REVIEW

24.301 Judicial review as of right or by leave.

Sec. 101. When a person has exhausted all administrative remedies available within an agency, and is aggrieved by a final decision or order in a contested case, whether such decision or order is affirmative or negative in form, the decision or order is subject to direct review by the courts as provided by law. Exhaustion of administrative remedies does not require the filing of a motion or application for rehearing or reconsideration unless the agency rules require the filing before judicial review is sought. A preliminary, procedural or intermediate agency action or ruling is not immediately reviewable, except that the court may grant leave for review of such action if review of the agency's final decision or order would not provide an adequate remedy.

HISTORY: New 1969, p. 574, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 100, Act 40, Imd. Eff. Jul. 1.

24.302 Judicial review; method.

Sec. 102. Judicial review of a final decision or order in a contested case shall be by any applicable special statutory review proceeding in any court specified by statute and in accordance with the general court rules. In the absence or inadequacy thereof, judicial review shall be by a petition for review in accordance with sections 103 to 105.

HISTORY: New 1969, p. 574, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 100, Act 40, Imd. Eff. Jul. 1.

24.303 Petitions for review; place of filing, contents.

Sec. 103. (1) A petition for review shall be filed in the circuit court of the county where petitioner resides or has his principal place of business in this state, or in the circuit court for Ingham county.

(2) A petition for review shall contain a concise statement of:

(a) The nature of the proceedings as to which review is sought.

(b) The facts on which venue is based.

(c) The grounds on which relief is sought.

(d) The relief sought.

(3) The petitioner shall attach to the petition, as an exhibit, a copy of the agency decision or order of which review is sought.

HISTORY: New 1969, p. 575, Act 306, Eff. Jul. 1, 1970.

24.304 Petition for review; filing, time; stay; record; scope.

Sec. 104. (1) A petition shall be filed in the court within 60 days after the date of mailing notice of the final decision or order of the agency, or if a rehearing before the agency is timely requested, within 60 days after delivery or mailing notice of the decision or order thereon. The filing of the petition does not stay enforcement of the agency action but the agency may grant, or the court may order, a stay upon appropriate terms.

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(2) Within 60 days after service of the petition, or within such further time as the court allows, the agency shall transmit to the court the original or certified copy of the entire record of the proceedings, unless parties to the proceedings for judicial review stipulate that the record be shortened. A party unreasonably refusing to so stipulate may be taxed by the court for the additional costs. The court may permit subsequent corrections to the record.

(3) The review shall be conducted by the court without a jury and shall be confined to the record. In a case of alleged irregularity in procedure before the agency, not shown in the record, proof thereof may be taken by the court. The court, on request, shall hear oral arguments and receive written briefs.

HISTORY: New 1969, p. 575, Act 306, Eff. Jul. 1, 1970;—Am. 1970, p. 100, Act 40, Imd. Eff. Jul. 1.

24.305 Inadequate record; additional evidence, modification of findings, decision order.

Sec. 105. If timely application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that an inadequate record was made at the hearing before the agency or that the additional evidence is material, and that there were good reasons for failing to record or present it in the proceeding before the agency, the court shall order the taking of additional evidence before the agency on such conditions as the court deems proper. The agency may modify its findings, decision or order because of the additional evidence and shall file with the court the additional evidence and any new findings, decision or order, which shall become part of the record.

HISTORY: New 1969, p. 575, Act 306, Eff. Jul. 1, 1970.

24.306 Grounds for reversals.

Sec. 106. (1) Except when a statute or the constitution provides for a different scope of review, the court shall hold unlawful and set aside a decision or order of an agency if substantial rights of the petitioner have been prejudiced because the decision or order is any of the following:

(a) In violation of the constitution or a statute.

(b) In excess of the statutory authority or jurisdiction of the agency.

(c) Made upon unlawful procedure resulting in material prejudice to a party.

(d) Not supported by competent, material and substantial evidence on the whole record.

(e) Arbitrary, capricious or clearly an abuse or unwarranted exercise of discretion.

(f) Affected by other substantial and material error of law.

(2) The court, as appropriate, may affirm, reverse or modify the decision or order or remand the case for further proceedings.

HISTORY: New 1969, p. 575, Act 306, Eff. Jul. 1, 1970.

CHAPTER 7. MISCELLANEOUS PROVISIONS

24.311 Repeals.

Sec. 111. Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1969, p. 575, Act 306, Eff. Jul. 1, 1970.

24.312 References to repealed acts.

Sec. 112. A reference in any other law to Act No. 88 of the Public Acts of 1943, as amended, or Act No. 197 of the Public Acts of 1952, as amended, is deemed to be a reference to this act.

HISTORY: New 1969, p. 576, Act 306, Eff. Jul. 1, 1970.

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24.313 Effective date and applicability.

Sec. 113. This act is effective July 1, 1970, and except as to proceedings then pending applies to all agencies and agency proceedings not expressly exempted.

HISTORY: New 1969, p. 576, Act 306, Eff. Jul. 1, 1970.

24.314 Rules in process.

Sec. 114. When an agency has completed any or all of the processing of a rule pursuant to Act No. 88 of the Public Acts of 1943, as amended, before July 1, 1970, similar processing required by this act need not be completed and the balance of the processing and the publication of the rule shall be completed pursuant to this act. An effective date may be added to such a rule although it was not included in the notice of hearing on the rule pursuant to subsection (1) of section 41, when such notice was given before July 1, 1970.

HISTORY: Add. 1970, p. 100, Act 40, Imd. Eff. Jul. 1.

24.315 Exemptions.

Sec. 115. Chapters 4 and 6 shall not apply to the Bureau of Workmen's Compensation or the Workmen's Compensation Appeal Board created by Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.899 of the Compiled Laws of 1948.

HISTORY: Add. 1970, p. 101, Act 40, Imd. Eff. Jul. 1.

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CHAPTER 26. SUPREME COURT REPORTS

SUPREME COURT REPORTS
Act 385 of 1927

26.1 Michigan reports and advance sheets; publication, sale and distribution.
26.2 Bids for publication, printing, binding, sale; contracts.
26.3 Advertisement for bids; award of contract.
26.4 Bidder's deposit; forfeiture.
26.5 Contract; terms; bond; failure to complete, forfeiture of contract.
26.6 Contract; contents, copyright; noncompliance with act or contract; delivery of electrotyped plates; work done in state.
26.7 Authority as to publication, printing, sale and distribution; printing by state.
26.8 Supreme court reporter, duties; size of volumes; original plates to be state property.
26.9 Purchase of plates by board of state auditors; payment.
26.10 Advertisement for bids for printing on thin paper; contracts.
26.11 Supervision of publication by supreme court reporter; final authority of supreme court.
26.12 Delivery of copies to state librarian by contractor.
26.13 Distribution and sale of published reports by contractor.
26.14 Separate contract for printing and sale of former volumes.

REPUBLICATION OF SUPREME COURT REPORTS
Act 234 of 1897

26.21 Reprinting of former volumes of supreme court reports; sale, distribution, price.

SUPREME COURT REPORTS TO PROBATE COURTS
Act 195 of 1887

26.31 Copies of supreme court reports to be furnished to probate courts; price of certain volumes.
26.32 Distribution of reports to probate courts.

EXCHANGE OF SUPREME COURT REPORTS
Act 174 of 1871

26.47 State librarian; authority to exchange or sell reports; bond; printing of new editions.

REPORTS FURNISHED CERTAIN COUNTIES
Act 190 of 1909

26.51 Compiled Laws of 1897, subsequent legislation, and all Michigan reports; distribution to county clerks by state librarian.

Act 385, 1927, p. 921; Eff. Sep. 5.

AN ACT to provide for the publication, reproduction, printing, binding, distribution and sale of the reports of decisions of the supreme court of Michigan and the advance sheets of such reports of decisions. Am. 1948, Ex. Ses., p. 24, Act 15, Imd. Eff. Apr. 28.

The People of the State of Michigan enact:

26.1 Michigan reports and advance sheets; publication, sale and distribution.

Sec. 1. The reports of decisions of the supreme court of Michigan and the advance sheets of such decisions shall be published, sold and distributed as hereinafter provided. The reports of decisions of the supreme court of Michigan shall be called "Michigan reports" and the advance sheets of such decisions shall be called the "Advance sheets of Michigan reports".

HISTORY: CL 1929, 523;—CL 1948, 26.1.
FORMER ACT: Act 168 of 1879, being CL 1915, 857-868.
TRANSFER OF POWERS: To department of administration, see Compilers' § 18.1 et seq.

26.2 Bids for publication, printing, binding, sale; contracts.

Sec. 2. The board of state auditors is hereby authorized and directed to solicit bids for the publication, electrotyping, printing, binding and sale of Michigan reports and of the advance sheets of Michigan reports, and to contract therefor in accordance with the provisions of this act.

HISTORY: CL 1929, 524;—CL 1948, 26.2.

26.3 Advertisement for bids; award of contract.

Sec. 3. The board of state auditors shall, commencing the first week in January, 1956, and every 8 years thereafter, and as often as any contract let hereunder shall be

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forfeited or terminated in any way, advertise in 3 Michigan newspapers of paid general circulation at least once in each week for 3 successive weeks, that sealed proposals will be received by said board at Lansing and opened at the end of the period of said publication of notice, on a stated date, for the publication, electrotyping, printing, binding and sale of said Michigan reports and advance sheets of Michigan reports, as herein provided, for the term of 8 years from and after the 13th day of May, 1956, at a certain price per volume for the Michigan reports and at a certain price per year for the advance sheets of Michigan reports to be stated in such proposals, and shall, within 10 days thereafter, award said contract to the lowest bidder complying with the provisions of this act.

HISTORY: CL 1929, 525;—Am. 1933, p. 8, Act 8, Imd. Eff. Feb. 13;—CL 1948, 26.3;—Am. 1956, p. 192, Act 101, Imd. Eff. Apr. 9.

26.4 Bidder's deposit; forfeiture.

Sec. 4. Each bidder shall deposit with the state treasurer before making his proposal a certified check for the sum of 1,000 dollars which is to be forfeited to the state in case he shall fail to enter into a contract in accordance with this act if said board shall declare him to be the successful bidder, and he shall take a receipt from said treasurer and deposit it with his proposal.

HISTORY: CL 1929, 526;—CL 1948, 26.4.

26.5 Contract; terms; bond; failure to complete, forfeiture of contract.

Sec. 5. The successful bidder shall make a contract according to the terms of his proposal and the provisions of this act, which shall be made and considered part thereof, within 30 days after notice that the same is accepted, and shall also file with the state treasurer a bond in the penal sum of 10,000 dollars, conditioned to fulfill said contract in all particulars. Said bond shall be signed by a surety company authorized to do business in the state of Michigan and shall be the joint and several obligation of said company and the person bound by such contract. If the successful bidder shall fail to complete his contract, or shall forfeit the same for any cause, the said board shall relet the contract as soon thereafter as practicable, in the manner provided by section 3 of this act, and said contractor shall also pay to the state all expense thereof, and said board may also complete any part of such first or any subsequent contract not fulfilled at the reletting of the same at the expense of such contractor.

HISTORY: CL 1929, 527;—CL 1948, 26.5.

26.6 Contract; contents, copyright; noncompliance with act or contract; delivery of electrotyped plates; work done in state.

Sec. 6. The contract of the successful bidder shall contain, among others, the following covenants:

1. That he shall take out no copyright except to the secretary of state for the use and disposal of the state, upon any volume published under such contract.

2. That if it shall, on petition by any citizen of Michigan, be made to appear to the justices of the supreme court that such contractor has in any respect failed to comply with the provisions of this act or his contract, said justices may, upon hearing had in such manner as they may direct, declare the contract forfeited, and on such forfeiture being declared, such contractor shall upon demand of said board transfer to the secretary of state of this state for the use of the state, all the electrotype plates of all volumes published under such contract, or in default thereof will pay to the treasurer of this state $1,000.00 for each such volume as liquidated damages for failure to make such transfer.

3. That he will, as often and as soon as any and every volume is ready for binding, deliver to the secretary of state at Lansing, free of all charge whatsoever, a set of electrotyped plates thereof in good order for printing, or in default thereof he shall pay to the treasurer of this state the like sum of $1,000.00 as liquidated damages for failure to

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deliver the same. Moneys received under this section shall be used as far as necessary to procure electrotyped plates of such published reports, to be paid for by said treasurer on the draft of the board of state auditors approved by the secretary of state, who shall certify that such plates have been deposited with him.

4. That the board of state auditors may require that the contractor have all of the composition, plating, presswork and folding and substantially all of the binding done within this state.

HISTORY: CL 1929, 528;—Am. 1943, p. 369, Act 228, Eff. July 30;—CL 1948, 26.6.

26.7 Authority as to publication, printing, sale and distribution; printing by state.

Sec. 7. In the event that no bid is received by the board of state auditors for the publication of the Michigan reports and advance sheets of Michigan reports, or in the event that in all of the bids so received, the charge per volume at which the same are to be sold shall be in excess of what said board and the justices of the supreme court shall determine to be a fair price therefor, said board may proceed to secure such publication of the Michigan reports and advance sheets of Michigan reports and the electrotyping of said plates or such other method of reproduction as may be found expedient at the expense of the state of Michigan. Said board shall also have like authority with reference to the publication of former volumes of the reports from the plates now owned by the state. Authority is hereby granted to the board to determine the manner in which the publication, printing, binding, sale, and distribution of said reports and advance sheets shall be done, and to enter into a contract, or contracts, for all or any part of the necessary work, labor and material. In its discretion the board may require that the printing and binding of said reports or advance sheets, or either of them, shall be done under the general contract for state printing and binding entered into in pursuance of the provisions of Act No. 12 of the Public Acts of 1903. In the making of any contract or contracts contemplated by this section, said board shall not be subject to the provisions, specifications, limitations or restrictions contained in other sections of said Act No. 385 of the Public Acts of 1927 as amended. The moneys for such publication, reproduction, sale and distribution shall be paid by the state treasurer out of any moneys in the general fund of the state on the order of the board of state auditors, and any moneys received by said board on account of such sales shall be deposited by it in said general fund.

HISTORY: CL 1929, 529;—Am. 1948, 1st Ex. Ses., p. 24, Act 15, Imd. Eff. April 28;—CL 1948, 26.7.

Sec. 2 of Act 15, 1948, 1st Ex. Ses., provided as follows:

"Section 2. For the purpose of carrying out the provisions of this amendatory act there is hereby appropriated for the use of the board of state auditors from the general fund for the fiscal year ending June 30, 1948, the sum of $10,000.00, and for the fiscal year ending June 30, 1949, the sum of $30,000.00."

26.8 Supreme court reporter, duties; size of volumes; original plates to be state property.

Sec. 8. The supreme court reporter shall, as soon as practicable, after the decisions of the supreme court are announced, furnish and deliver to the person or corporation having the contract with the state for publishing the same, copies of such decisions, with a syllabus and brief statement of the case, and a proper index and digest of such decisions to be published in and as part of such volumes. Each of said volumes shall contain not less than 700 pages, unless printed on thin paper as provided for in section 10 of this act, to be electrotyped, printed and bound in a good and substantial manner and form, of good material for law books, and printed in not larger type, set in the same manner, and of the same style and quality as volume 234 of the Michigan reports in the state library at Lansing, and to be approved and accepted by the justices of the supreme court, or a majority of them. The original electrotyped plates shall be at all times the property of this state, subject to the right of such contractor to use the same

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during the term of his contract or until the same shall be declared forfeited as herein provided.

HISTORY: CL 1929, 530;—CL 1948, 26.8.

26.9 Purchase of plates by board of state auditors; payment.

Sec. 9. The board of state auditors is hereby authorized to secure all electrotyped plates for all reports belonging to the state, and it is hereby authorized to secure or purchase any electrotyped or stereotyped plates of reports that the state does not now own, and thereafter said board shall at all times keep complete electrotyped or stereotyped plates for all volumes of the reports in good order for printing. Any moneys paid for the purchase of such plates of reports not now owned by the state shall be paid out of any moneys in the general fund of the state on the order of the board of state auditors.

HISTORY: CL 1929, 531;—CL 1948, 26.9.

26.10 Advertisement for bids for printing on thin paper; contracts.

Sec. 10. The board of state auditors in advertising for bids as provided for in section 3 of this act shall also ask for bids for the bound volumes of Michigan reports printed on thin opaque paper equivalent to a paper 25 by 38, weighing about 40 pounds to the ream, such volumes to contain not less than 1400 pages of text, and in case the said board and the justices of the supreme court shall determine that it is in the public interest to have such reports printed on thin paper, the said board may enter into a contract therefor in like manner as provided for in section 8 of this act, except that each volume shall contain 1400 pages instead of 700 pages as therein provided.

HISTORY: CL 1929, 532;—CL 1948, 26.10.

26.11 Supervision of publication by supreme court reporter; final authority of supreme court.

Sec. 11. Said reports shall be published under the supervision of said reporter, and subject at all times to the directions of the justices of the supreme court, or a majority of them, to whom shall be referred any matter of dispute, and their decision shall be final and binding upon the contractor and the state.

HISTORY: CL 1929, 533;—CL 1948, 26.11.

26.12 Delivery of copies to state librarian by contractor.

Sec. 12. Such contractor shall, within 60 days after receiving the final manuscripts of any volume from the reporter, deliver to the state librarian at Lansing, free of cost for publication or delivery, 375 copies of the Michigan reports and 25 copies of the advance sheets of Michigan reports, in good order and according to contract, to be distributed by the state librarian as authorized in writing from time to time by the justices of the supreme court.

HISTORY: CL 1929, 534;—CL 1948, 26.12.

26.13 Distribution and sale of published reports by contractor.

Sec. 13. Said contractor shall, within the same time, place the same on sale in the city of Detroit and city of Lansing, and such other places in Michigan as may be directed by said justices in writing, in quantities sufficient to meet all demands, and shall thereafter at all times keep the same on sale to citizens of this state, at the places aforesaid, in sufficient quantities, at a price not exceeding the price named in the contract.

HISTORY: CL 1929, 535;—CL 1948, 26.13.

26.14 Separate contract for printing and sale of former volumes.

Sec. 14. In any publication for and letting of contracts, the board of state auditors shall let as a separate part of such contract the publication of reports from the plates of former volumes owned by the state, as now provided by law, the same to be pub-

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lished and bound in like manner, style, and quality, and put and kept on sale, at such separate contract price in like manner as new reports.

HISTORY: CL 1929, 536;—CL 1948, 26.14.

Sec. 15. (This was a repeal section.)

HISTORY: CL 1929, 537;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.
ACTS REPEALED: Act 168, 1879, CL 1915, 857-868.

Act 234, 1897, p. 310; Eff. Aug. 30.

AN ACT to provide for the republication and sale of certain volumes of the reports of the supreme court of this state, and to repeal Act No. 40 of the session laws of 1881, relating to such reports.

The People of the State of Michigan enact:

26.21 Reprinting of former volumes of supreme court reports; sale, distribution, price.

Sec. 1. That whenever a majority of the justices of the supreme court shall deem it necessary to republish any volume or volumes of the reports of the supreme court of this state, they shall so certify to the board of state auditors, and it shall be the duty of the said board of state auditors to cause the same to be reprinted under any contract which the state may have for doing its printing and binding and in such quantity, number and quality as such board may direct, and to provide for the sale, distribution and disposition of such reports as the interests of the state may require at a price not to exceed 25 per cent in excess of the cost thereof, the proceeds of all such sales to be paid into the general fund.

HISTORY: CL 1897, 1571;—CL 1915, 869;—CL 1929, 538;—CL 1948, 26.21.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 870;—CL 1929, 539;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.
ACTS REPEALED: Act 40, 1881.

Act 195, 1887, p. 210; Imd. Eff. Jun. 18.

AN ACT to provide for the furnishing to the probate court of each organized county in this state with a full set of the reports of the supreme court of the state of Michigan.

The People of the State of Michigan enact:

26.31 Copies of supreme court reports to be furnished to probate courts; price of certain volumes.

Sec. 1. That the secretary of state is hereby authorized and directed to procure and furnish, as hereinafter provided, to the probate court of each organized county in this state not already supplied a complete set of the reports of the supreme court of the state of Michigan, including all annotated reports of the present edition, or so many of said reports as may be necessary to complete a full set for the probate court of each organized county in this state: Provided, That the price to be paid for the reports of Harrington, Walker and Douglas and volumes 1 to 22 inclusive of the Michigan reports shall not exceed the sum of 3 dollars per volume: Provided, further, That each of said volumes shall be printed and bound in as good and substantial a *maner as the present edition of said reports.

HISTORY: How. 6812d;—CL 1897, 1572;—CL 1915, 871;—CL 1929, 540;—CL 1948, 26.31.
*Note: It is evident the word "maner" is misspelled. The word should be "manner."

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26.32 Distribution of reports to probate courts.

Sec. 2. The secretary of state is hereby authorized and directed to distribute to the probate courts herein named such of said reports as are now owned by the state and available for the purpose of this act and to procure and distribute within 90 days after the passage of this act so many of said reports mentioned in section 1 of this act as can be procured within that time.

HISTORY: How. 6812e;—CL 1897, 1573;—CL 1915, 872;—CL 1929, 541;—CL 1948, 26.32.

Sec. 3. (This was an appropriation section.)

HISTORY: How. 6812f;—CL 1897, 1574;—CL 1915, 873;—CL 1929, 542;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Act 174, 1871, p. 287; Eff. Jan. 1, 1872.

AN ACT to provide for the appointment of a state reporter.

The People of the State of Michigan enact:

Secs. 1-6.

HISTORY: Secs. 1-4 were repealed as part of Ch. 21, CL 1897, by Act 314 of 1915, (Jud. Act), being Compilers' § 681.1, and Secs. 5 and 6 were repealed by Act 168 of 1879.

26.47 State librarian; authority to exchange or sell reports; bond; printing of new editions.

Sec. 7. The state librarian may exchange any of said reports for such other reports or law books as shall be approved by the chief justice of the supreme court, which reports or other books, procured by such exchange, shall be kept in the state library. After the publication of any volume under the provisions of this act the state librarian may sell the same at a price per volume not exceeding the actual cost to the state of publication thereof, to be determined by the board of state auditors, and 20 per cent added thereto. The state librarian shall give a bond in the penal sum of 5,000 dollars to the state, conditioned for the faithful performance of the duties imposed by this act. He shall keep an account of all moneys received by him for said reports, and shall pay the same monthly to the state treasurer, who shall credit the same to the general fund. In case of sales to any 1 person at 1 time of 25 volumes or over, the 20 per cent aforesaid may be deducted from the selling price of such volumes. When the edition of any volume authorized to be sold by the state librarian, shall be exhausted a new edition of the same number of volumes shall be printed, bound, and sold, as provided in this act relative to the first edition.

HISTORY: CL 1871, 5657;—Am. 1873, p. 184, Act 137, Eff. July 31;—How. 7201;—CL 1897, 229;—CL 1915, 874;—CL 1929, 543;—CL 1948, 26.47.

This section was expressly excepted from the repeal of Ch. 21 of CL 1897, by Act 314 of 1915 (Jud. Act), being Compilers' § 681.1.

Secs. 8-9.

HISTORY: These sections were repealed as part of Ch. 21, CL 1897 by Act 314 of 1915 (Jud. Act), being Compilers' § 681.1.

Sec. 10.

HISTORY: This section provided the effective date.

Act 190, 1909, p. 355; Eff. Sep. 1.

AN ACT in relation to the distribution of the Compiled Laws of 1897, and of the reports and decisions of the supreme court.

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The People of the State of Michigan enact:

26.51 Compiled Laws of 1897, subsequent legislation, and all Michigan reports; distribution to county clerks by state librarian.

Sec. 1. In all counties in which circuit court is held in more than 1 place, it shall be the duty of the secretary of state to furnish to the county clerk of such county, for the use of said circuit court, 1 complete set of the Compiled Laws of 1897, together with the index thereof and acts passed by the legislature subsequent to 1897, and the state librarian shall furnish 1 complete set of the Michigan supreme court reports: Provided, That if for any reason the state librarian shall be unable to furnish any of the volumes of said reports, the board of state auditors is hereby authorized, and it is its duty, to purchase such missing volumes to complete such set: Provided further, It shall be the duty of the state librarian to furnish from time to time to said county clerk, the current volumes of Michigan supreme court reports as they are issued.

HISTORY: CL 1915, 875;—CL 1929, 544;—CL 1948, 26.51.

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CHAPTER 28. MICHIGAN STATE POLICE

MICHIGAN STATE POLICE

Act 59 of 1935

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Act 59, 1935, p. 89; Imd. Eff. May 17.

AN ACT to provide for the public safety; to create the Michigan state police, and provide for the organization thereof; to transfer thereto the offices, duties and powers of the state fire marshal, the state oil inspector, the department of the Michigan state police as heretofore organized, and the department of public safety; to create the office of commissioner of the Michigan state police; to provide for an acting commissioner and for the appointment of the officers and members of said department; to prescribe their powers, duties, and immunities; to provide the manner of fixing their compensation; to provide for their removal from office; and to repeal Act No. 26 of the Public Acts of 1919, being sections 556 to 562, inclusive, of the Compiled Laws of 1929, and Act No. 123 of the Public Acts of 1921, as amended, being sections 545 to 555, inclusive, of the Compiled Laws of 1929. Am. 1939, p. 297, Act 152, Eff. Sep. 29.

The People of the State of Michigan enact:

28.1 Michigan state police; definitions.

Sec. 1. As employed in this act, the following words or terms shall be understood to mean:

(a) The word "commissioner" shall mean commissioner or commanding officer of the Michigan state police.

(b) "Acting commissioner" shall mean the acting commissioner or commanding officer of the Michigan state police.

(c) "Officer" shall mean any member of the Michigan state police executing the constitutional oath of office.

(d) "Civilian employe" shall mean any employe not executing the constitutional oath of office.

(e) "Members," "members of the department," or "members of said department" shall mean any employe of said department whether an officer or a civilian employe.

(f) "Department" shall mean the "Michigan state police."

HISTORY: CL 1948, 28.1.

28.2 Michigan state police; creation; director, appointment, salary, oath of office, location of department.

Sec. 2. There is created a department of the state government which shall be known and designated as the Michigan state police, which shall consist of a director as its executive head, and of such officers and employees as may be appointed or employed in such department. The director shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold office during good behavior. The salary of the director shall be such as shall be appropriated by the legislature. The director shall execute the constitutional oath of office.

HISTORY: CL 1948, 28.2;—Am. 1952, p. 422, Act 253, Eff. Sep. 18;—Am. 1967, p. 87, Act 68, Eff. Mar. 22, 1968.

28.3 Acting commissioner; designation, compensation, length of service.

Sec. 3. The commissioner may appoint or designate 3 officers from among the 10 highest ranking commissioned officers of the department to serve in the order of precedence, as named, as acting commissioner in his absence from the aforesaid office,

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during his illness and/or during his disability for any reason to perform his duties: Provided, however, That any such officer so acting shall receive no additional compensation by virtue thereof. An officer appointed or designated or serving as acting commissioner may be relieved from such appointment or designation or service at the will of the commissioner.

HISTORY: CL 1948, 28.3.

28.4 Divisions; officers, qualifications, oath of office; hearing, dismissal; civilian employees.

Sec. 4. Said department shall consist of a uniformed division, a detective division, and such other divisions, bureaus or branches as have been or may be established by law or by the commissioner in his discretion. The commissioner shall establish a highway patrol in the uniform division consisting of not less than 100 members. The commissioner shall appoint and employ all members of said department and they shall be classified as officers and civilian employes. All persons appointed as officers shall be at the time of their appointment not less than 21 years of age, the maximum age limit to be fixed by the commissioner from time to time, shall be of sound mind and body, be of good moral character, be citizens of the United States and residents of the state of Michigan and shall possess such educational qualifications as the commissioner may from time to time prescribe. All persons appointed as officers shall execute the constitutional oath of office before entering upon their duties. No officer shall be dismissed, except when insufficient funds require a reduction in expenditures in which case the officer or officers junior in point of service shall be discharged, until a due hearing on his removal shall be had as hereinafter provided. Civilian employes may be dismissed at the will of the commissioner.

HISTORY: Am. 1941, p. 145, Act 115, Imd. Eff. May 21;—CL 1948, 28.4.

28.5 Departments and offices transferred to jurisdiction of Michigan state police; state fire marshal.

Sec. 5. The following existing departments and offices are hereby transferred to and placed under the jurisdiction of the Michigan state police, namely: The state oil inspector's department, the department of public safety and the department of the Michigan state police, as now constituted, and the commissioner of the Michigan state police ex officio shall hereafter be the state oil inspector. The powers and duties pertaining to the office of deputy state oil inspector prior to the passage of this act and Act No. 123 of the Public Acts of 1921, may be exercised and performed by any employe of the Michigan state police deputized or appointed by the commissioner to exercise and perform such duties.

The commissioner of the Michigan state police ex-officio shall hereafter be the state fire marshal. The offices of deputy state fire marshal and assistant state fire marshal are hereby abolished. The powers of the state fire marshal shall be exercised and performed by any employe of the Michigan state police deputized or appointed by the commissioner to exercise and perform such duties.

HISTORY: Am. 1939, p. 297, Act 152, Eff. Sept. 29;—CL 1948, 28.5.

See also as to state fire marshal, Compilers' § 29.1.

Act 123 of 1921, above referred to, is repealed by this act.

28.6 Commissioner and officers; powers, duties and functions.

Sec. 6. The commissioner and each officer of the department are hereby individually vested with the powers of a conservator of the peace. They may also apply to any judicial officer of the state for the issuance of search warrants, warrants of arrest or any other criminal process or orders necessary where the institution of criminal proceedings for the discovery or punishment of a felony or a misdemeanor of any degree is ordered in writing by the attorney general of the state of Michigan in any case

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where the proper prosecuting attorney shall fail or refuse to act or give his approval thereto. The said commissioner and each officer of said department are hereby granted all the immunities and matters of defense available or hereafter made available to conservators of the peace and/or sheriffs in any suit brought against them by virtue of acts done in the course of their employment.

Any such member of the said department may serve and execute all criminal and civil process, when directed to do so by the governor or the attorney general, in actions and matters in which the state is a party. The commissioner and said department shall be under the immediate control and direction of the governor, and any member thereof may be employed by the attorney general in any investigation or matter under the jurisdiction of his department.

The commissioner shall have authority, upon the order of the governor, to call upon any sheriff or other police officer of any county, city, township or village, within the limits of their respective jurisdictions, for aid and assistance in the performance of any duty imposed by this act and, upon being notified or called upon for such aid and assistance, it shall be the duty of the officer concerned to comply with such order to the extent requested. Refusal or neglect to comply therewith shall be deemed misfeasance in office and shall subject the officer so refusing or neglecting to removal from office.

The said commissioner shall formulate and put into effect plans and means of cooperating with the local police and peace officers throughout the state for the purpose of the prevention and discovery of crimes and the apprehension of criminals; and it shall be the duty of all such local police and peace officers to cooperate with such commissioner in such plans and means. Every telegraph and telephone company operating within this state shall grant priority of service to the police agencies and to the Michigan state police when notified that such service is urgent and in the interests of the public safety.

The commissioner and all officers of said department shall have and exercise all the powers of deputy sheriffs in the execution of the criminal laws of the state and of all laws for the discovery and prevention of crime and shall have authority to make arrests without warrants for all violations of the law committed in their presence including laws designed for the protection of the public in the use of the highways of the state, and to serve and execute all criminal process. It shall be their duty to cooperate with other state authorities and local authorities in the detecting of crime, apprehending of criminals, and preserving law and order throughout the state.

HISTORY: CL 1948, 28.6.

DROWNED BODIES: Duties with respect to recovery, see Compilers' §§ 51.301 and 51.302.

28.6a Conservation officers; appointment by commissioner as state police officers.

Sec. 6a. The commissioner is hereby authorized, with the approval of the director of conservation and the governor, to appoint any conservation officer as a special state police officer, who shall be vested with the powers of an officer of the state police, and who shall in his capacity as special state police officer be under the direction of the commissioner.

HISTORY: Add. 1942, 1st Ex. Ses., p. 12, Act 4, Imd. Eff. Jan. 28;—CL 1948, 28.6a.

NOTE: Section 2 of amendatory Act 4 was repealed by Act 84, 1945. It contained a war expiration clause.

28.6b State police reserve.

Sec. 6b. (1) The director is authorized to recruit, equip and train a special reserve statewide police force to serve as an auxiliary to, and under the direct supervision of, the department. The selection of reserve officers shall be in a manner prescribed by the director, but a person shall not be selected unless he is a citizen of the United States, a former police officer of this state, or of the United States or the armed forces of the United States, of good moral character and a resident of the state for 1 year.

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The director shall administer the constitutional oath of office to the reserve officers, who shall be subject to the departmental rules while they are serving in an official capacity. The director may discharge any member of the reserve at any time.

(2) Officers of the reserve force shall be compensated while on active duty consistent with policies of the civil service commission. Officers shall not be eligible to participate in any state pension or disability plan nor any life, hospitalization or other medical insurance plans of the department by virtue of their affiliation with the state police reserve force. Accrued pension benefits of former state employees shall not be affected in any manner by such affiliation. Reserve officers shall be covered by workmen's compensation when called to duty by the director. A reserve officer shall have the authority of a duly appointed state police officer, except this authority shall be limited to the period of time that the reserve officer is in immediate association with regular officers of the department or is performing police functions assigned by, and supervised by, the department. Such authority shall continue until specifically rescinded by the director.

(3) It is the intent of this section that the department shall have a standby force for use during emergencies as the director shall specify and that police powers are extended to reserve officers only when specifically and directly authorized under the circumstances outlined in this section. The director may promulgate rules necessary to fulfill the intent of this section.

(4) There is hereby appropriated from the general fund the sum of $50,000.00 to implement the provisions of this act.

HISTORY: Add. 1968, p. 292, Act 194, Imd. Eff. Jun. 22.

28.7 Commissioner; duties and functions.

Sec. 7. It shall be the duty of the commissioner to provide the officers of said department with suitable uniforms, subsistence, arms, equipment, clothing, quarters and other articles necessary, and also the expense and means of travel and boarding them, if necessary, and horses and forage if necessary. It shall also be his duty to establish and maintain local headquarters in various places, and he is hereby authorized to do so by agreement, lease or otherwise, so as to best establish the department throughout the various sections of the state where it will be most efficient in carrying out the purpose of this act, to preserve peace and prevent crime. The commissioner shall fix the location of the various units of the department, prescribe the uniforms, equipment, rates of pay and increase thereof of all members of the department, the character of the training and discipline and the general policy in respect to the use and employment of all members of said department.

HISTORY: CL 1948, 28.7.

28.7a Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section authorized commissioner of state police to sell certain personal property.

28.8 Officers; grades, powers and duties, furlough, transportation.

Sec. 8. The grades and duties of the officers of said department shall be captain, lieutenant, sergeant, corporal and trooper, and promotion shall be from the next lower rank after not less than 1 year of service therein. The officers shall be authorized to carry arms either openly or concealed. Every member of said department shall be subject to orders at any time, the officers shall be deemed to be on duty at all times for the purpose of apprehending criminals and preserving law and order, and each member shall be entitled to not to exceed 24 days furlough each year, if in the opinion of the commissioner or his commanding officer the allowance thereof will not affect the efficiency of the department or local unit. Officers and civilian employes of the department when traveling on duty shall be entitled to transportation upon any steam or electric railroad of the state, or any passenger steamboat line, or any passenger bus

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line, upon presentation of a requisition for such transportation signed by the commissioner and such carriers shall be entitled to compensation for transportation so furnished out of moneys appropriated for said department.

HISTORY: CL 1948, 28.8.

28.9 Rules and regulations of department adopted by commissioner.

Sec. 9. The commissioner shall make and adopt rules and regulations for the direction, control, discipline and conduct of the members of said department, for promotion on the basis of seniority of service, qualifications being equal, of the officers of the department, for the filing and hearing of charges against such officers and he may make any other rules and regulations for the governing and operation of said department as shall appear to him reasonably necessary to carry out the purposes of this act. He may require any officer or employe, who may receive and/or disburse public funds in the course of his duties, to file a bond conditioned that he will honestly, correctly, and according to law receive, disburse, pay over and/or account for all public moneys coming into his hands, such bond to be approved as to for, amount and surety by the attorney general.

HISTORY: CL 1948, 28.9.

28.10 Members of department prohibited from taking part in political campaigns.

Sec. 10. The commissioner and all members of the department, officers and civilian employes, are hereby prohibited from taking part in any political campaign or soliciting support through votes or money for any candidate for nomination or for election or for appointment to any public office and violation of the provisions hereof shall be sufficient for the removal of the commissioner or officer or discharge of the employe so offending: Provided, That nothing herein contained shall be deemed to interfere with the right of any member of said department to vote for any candidate and upon any issue as his reason and conscience may dictate.

HISTORY: CL 1948, 28.10.

28.11 Repealed. 1952, p. 422, Act 253, Eff. Sep. 18.

Section provided means for removal from office of commissioner of state police.

28.12 Trial board; members, powers; powers of commissioner as presiding officer.

Sec. 12. A trial board to hear charges against officers of the department consisting of the commissioner and 3 officers from among the 10 commissioned officers of the department, senior in service, shall be appointed by the commissioner. The commissioner shall be the presiding officer thereof and make all necessary rulings during the course of any hearing. He shall also make rules and regulations for the filing of verified written charges against an accused officer, for a due hearing thereon upon not less than 10 days notice and for an opportunity to the officer to produce proof in his defense. Such hearing may be held at any place designated by the commissioner.

The commissioner or the officer acting in his stead as presiding officer of the trial board is empowered to issue subpoenas to compel the attendance of witnesses and the production of evidence in support of charges, and shall issue subpoenas for witnesses for the defense and shall on his own motion if he have knowledge or be informed of other persons having knowledge of the matters charged compel their attendance at the hearing by subpoena. Persons summoned as witnesses before the trial board shall be entitled to witness fees and mileage for traveling, as provided by law for witnesses in courts of record in the county in which the hearing is held, and failure or refusal to obey any such subpoena shall be brought to the attention of the circuit court of the county wherein the hearing is held, and shall be punished by said court as a contempt. Upon written order of the commissioner, any officer appointed or designated to act in

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his absence as acting commissioner may sit in his place and stead as presiding officer of said trial board. If the charges be proved the trial board shall make a finding of guilty and recommend either removal of the officer or such disciplinary punishment as prescribed by the rules and regulations which, in their opinion, the offense merits; thereupon the commissioner shall direct such removal or punishment. If any officer refuses to abide by any such disciplinary order, the commissioner may by order remove him forthwith. Nothing herein contained shall require a hearing before said board before disciplinary measures may be taken by the commissioner or any commanding officer of a detachment or unit for the punishment of minor infractions of the rules and regulations of the department.

HISTORY: CL 1948, 28.12.

28.12a Injury to person or property caused by negligent operation of motor vehicle by state police officer or employee; reimbursement.

Sec. 12a. In case of injury to any person, or property damage, or both, heretofore or hereafter caused by the negligent operation of a motor vehicle belonging to the Michigan state police by an officer or employe of the Michigan state police, a complaint with respect thereto may be filed with the commissioner of the Michigan state police. An investigation into said accident shall be made as provided in the rules of the Michigan state police. In case such investigation shall disclose that said accident was due to the negligence of such officer or employe of the Michigan state police, and was not due to the negligence of any other person, a report of such investigation shall be filed in the office of the commissioner of the Michigan state police. After examination of such report and, if in the opinion of said commissioner, reimbursement for such injury to, or property damage, or both, is a proper claim, and if such claim shall not exceed $200.00 he shall cause to be drawn and shall sign a voucher therefor, payable from the appropriation to the Michigan state police, and shall submit such claim and voucher to the state administrative board. Notwithstanding any provision of law to the contrary, in case such claim and voucher shall be approved by the state administrative board, the same shall be paid, and the auditor general shall draw his warrant therefor on the state treasurer.

HISTORY: Add. 1943, p. 255, Act 181, Eff. July 30;—CL 1948, 28.12a.

28.13 Incumbents; continuation; construction of act.

Sec. 13. Until the governor shall appoint a commissioner as herein provided, the present commissioner of the department of public safety shall continue in office as such commissioner. Nothing herein contained shall be deemed to terminate any commission, appointment, or employment heretofore existing under the provisions of acts hereinafter repealed. All matters and orders pending before or made by any officer or department transferred under this act to the department of Michigan state police shall be deemed to be continued with like status in such department of Michigan state police. All existing appropriations for the support and maintenance of any office, department, division, bureau, or branch, transferred under this act, or for the performance of any duties, so transferred to the said department of Michigan state police, are hereby transferred to said department for the support and maintenance of the department of the Michigan state police. Whenever reference is made in any law to the "commissioner of public safety" or to the "department of public safety" such reference shall be construed to mean, respectively, the commissioner of the Michigan state police and department of Michigan state police herein provided for.

HISTORY: CL 1948, 28.13.

28.14 Disposition of fees.

Sec. 14. All fees or other moneys received by said Michigan state police shall be forwarded to the state treasurer each month and shall by said treasurer be deposited in

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the state treasury to be disbursed in such manner and for such purposes as may be provided by law.

HISTORY: CL 1948, 28.14.

28.15 Biennial report of commissioner to governor.

Sec. 15. On or before the first day of January of each year in which a regular session of the legislature is held, the commissioner shall make and file with the governor a report covering the preceding biennial period, covering the activities of the department and the receipts and disbursements made thereby. Said report shall be accompanied by the recommendations of the commissioner with reference to such changes in the laws applying to or affecting the department as the said commissioner may deem expedient. All salaries and expenses hereby authorized shall be paid in the same manner as the salaries and expenses of other state officers and employes are paid.

HISTORY: CL 1948, 28.15.

Sec. 16. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 17. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Act 26, 1919, as amended by Act 58, 1933, CL 1929, 556-562; Act 123, 1921, CL 1929, 545-555.

Act 40, 1950 (Ex. Ses.), p. 124; Eff. Mar. 31, 1951.

AN ACT to authorize the commissioner of the Michigan state police to create a subversive activities investigation division within the department of the Michigan state police, and to define the powers and duties of this division and of the commissioner and members of the Michigan state police and local police agencies in relation thereto; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

28.51 Subversive activities investigation division; establishment, membership.

Sec. 1. The commissioner of the Michigan state police is authorized to establish within the department of the Michigan state police a division to be known as the subversive activities investigation division, the personnel of which shall be appointed by the commissioner.

HISTORY: New 1950, p. 124, Act 40, Eff. Mar. 31, 1951.

28.52 Investigation division; duties.

Sec. 2. The duties of the subversive activities investigation division shall be to investigate activities within the state that are subversive of state or federal government, to obtain and compile information concerning such activities, to cooperate with military authorities, and to cooperate with federal, state and local law enforcing and investigating agencies in the enforcement of federal and state laws relating thereto.

HISTORY: New 1950, p. 124, Act 40, Eff. Mar. 31, 1951.

28.53 Investigation division; supervisory powers of state police commissioner.

Sec. 3. The commissioner shall have power:

(a) To maintain in the subversive activities investigation division confidential files of information on activities that are subversive of government, and activities contrary to federal law as aforesaid. Such files shall not be open for public inspection, nor shall information contained therein be released: Provided, That the commissioner may furnish information to federal, state and local law enforcement agencies or to the responsible heads of any agency having charge of employment by the state whom he

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considers proper to receive the same when, in his opinion, it is necessary to carry out the objectives of this act.

(b) To call upon any sheriff or other police officer of any county, city, or township or village, for information on such activities and for aid and assistance, within the limits of their respective jurisdictions, in the performance of any duty imposed by this act and, upon being notified or called upon for such aid and assistance, it shall be the duty of the officer concerned to comply with such order to the extent requested. Refusal or neglect to comply therewith shall be deemed nonfeasance in office and shall subject the officer so refusing or neglecting to removal from office.

(c) To appoint, employ, assign or retain such persons outside of or within the department of the Michigan state police as he may deem necessary, in carrying out the provisions of this act regarding subversive activities, at such compensation as he may determine and at his discretion to designate 1 or more of them to have the powers of an officer of the Michigan state police.

(d) To make such rules and regulations for the administration of the subversive activities investigation division as he shall deem necessary.

HISTORY: New 1950, p. 124, Act 40, Eff. Mar. 31, 1951.

28.54 Investigation division; revealing identity of personnel or expenditures, felony.

Sec. 4. Unless otherwise directed by the commissioner of the Michigan state police, no information concerning the identity of personnel engaged in such subversive investigation work or the specific expenditure of moneys appropriated for the purpose of carrying out such investigations shall be revealed publicly or to any unauthorized person by any state agency, official or employee. Any person violating the provisions of this section shall be deemed guilty of a felony.

HISTORY: New 1950, p. 125, Act 40, Eff. Mar. 31, 1951.

28.55 Investigation division; assistance by employees of state and local governmental units.

Sec. 5. To effectuate the broad objectives of this act, officials and employees of state and local governmental units and agencies thereof are hereby authorized to assist officers of the Michigan state police in the investigation of subversive activities.

HISTORY: New 1950, p. 125, Act 40, Eff. Mar. 31, 1951.

28.56 Subversive activities; definition.

Sec. 6. The term "subversive activities" as used in this act shall be construed to mean and include criminal syndicalism as it relates to political reform only and as it is otherwise defined under section 46 of Act No. 328 of the Public Acts of 1931, being section 750.46 of the Compiled Laws of 1948, or as the term "subversive activities" may be defined by other laws of the state of Michigan heretofore or hereafter enacted.

HISTORY: New 1950, p. 125, Act 40, Eff. Mar. 31, 1951.

EXECUTIVE ORDER

28.61 Executive reorganization order no. 1969-1; creating office of highway safety planning and designating governor's highway safety program representative.

WHEREAS, the Congress has enacted the Highway Safety Act of 1966, as amended, requiring Michigan to establish a highway safety program designed to reduce traffic accidents and deaths, injuries and property damage resulting therefrom, and

WHEREAS, Act 213 of the Public Acts of 1967 authorizes the Governor to take action necessary to secure the benefits available under the federal Highway Safety Act of 1966; and

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WHEREAS, the Federal Highway Safety Act of 1966 requires that the Governor of the State be responsible for the administration of the Michigan highway safety program; and

WHEREAS, the highway safety program has been administered within the Executive Office of the Governor and for reasons of administrative efficiency, the functions performed in this program should be administered within one of the principal departments of the state; and

WHEREAS, there is a need for a unified effort by state and local governments to halt the tragedy of highway accidents;

THEREFORE, I, William G. Milliken, Governor of the State of Michigan, pursuant to the authority vested in me by the Constitution of the State of Michigan and by Act 213 of the Public Acts of 1967 do hereby transfer the highway safety program function from the Executive Office of the Governor to the Department of State Police, and order the establishment of the Office of Highway Safety Planning to be located in the Department of State Police.

I hereby designate the executive director of the Office of Highway Safety Planning as the official representative of the Governor for the administration of the Michigan Highway Safety Program under the Highway Safety Act of 1966 and do hereby order the Director of the Department of State Police to combine the functions of the Office of Highway Safety Planning and the staff functions of the Michigan Safety Commission.

Among the functions and responsibilities of the Office shall be the following:

1. To provide, through use of all available resources, a comprehensive statewide highway safety plan to reduce traffic accidents and deaths, injuries and property damage resulting therefrom, developed in accordance with the highway safety needs and objectives of the State of Michigan and the requirements of National Highway Safety Standards.
2. To apply for and accept grants from the federal government under the provisions of the Highway Safety Act of 1966 and to expend or approve for expenditure such grants in a manner consistent with the Constitution and laws of the State of Michigan.
3. To apply for and accept grants from any public or private source for use in highway safety programs and to expend such grants in a manner consistent with the Constitution and laws of the State of Michigan.
4. To administer a highway safety grants program to state departments and local units of government according to the rules, regulations and procedures established under the Highway Safety Act of 1966 and the laws of the State of Michigan.
5. To assist in the coordination of the highway safety programs of all state departments and agencies, local units of government, and private agencies.

From and after the effective date of this order, all records, property, personnel and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to the Office of Highway Safety Planning, are transferred to the Department of State Police.

HISTORY: New 1969, p. 796, ERO No. 1969-1, Eff. Jul. 1.

Act 251, 1935, p. 431; Imd. Eff. Jun. 8.

AN ACT to create the Michigan department of public safety pension, accident and disability fund and to provide for the disbursement thereof; to provide for contribu-

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tions and funds from the appropriation of the Michigan department of public safety thereto; and to repeal Act No. 134 of the Public Acts of 1927.

The People of the State of Michigan enact:

28.101 Department of public safety pension, accident and disability fund; creation.

Sec. 1. There is hereby created and established a continuing fund to be known as the Michigan department of public safety pension, accident and disability fund. Such fund shall be made up from contributions from members of the Michigan department of public safety who have subscribed to the constitutional oath of office, from the rewards offered and accepted for such fund and from a yearly sum to be paid into such fund from the appropriation of the Michigan department of public safety in such an amount as shall be deemed sufficient by the commissioner of the Michigan department of public safety approved by the state administrative board to carry out the provisions of this act.

HISTORY: CL 1948, 28.101.

CITED IN OTHER SECTIONS: Sections 28.101 to 28.110 are cited in §§ 38.13 and 38.1102.

28.102 Pension fund; administration.

Sec. 2. The Michigan department of public safety pension, accident and disability fund shall be administered by the commissioner of the Michigan department of public safety under the supervision of the state administrative board. The auditor general shall issue warrants for the disbursement of such fund on the receipt of a signed voucher from the commissioner of the Michigan department of public safety approved by the state administrative board.

HISTORY: CL 1948, 28.102.

28.103 Pension fund; contributions by members; separation from service, return of contribution.

Sec. 3. Every member of the Michigan department of public safety, who has subscribed to the constitutional oath of office, shall come under the provisions of this act, and on the taking effect of this act shall contribute, every month, 5% of his monthly salary, to be deducted by the auditor general, and to be paid into the state treasury to the credit of the Michigan department of public safety pension, accident and disability fund. Any member of the public safety pension, accident and disability fund who resigns or is dismissed for reasons other than breach of the public trust from the Michigan department of public safety shall receive in a lump sum, payable to him or his legal representative, 100% of the contributions contributed by him into the fund. Any person who having once been a member of the fund has resigned, transferred or been dismissed for reasons other than breach of the public trust may apply for and shall receive in a lump sum, payable to him or his legal representatives, 100% of the contributions contributed by him into the fund. In the event of death or legal disability of the member, his legal representative may apply.

HISTORY: Am. 1937, p. 95, Act 70, Eff. Oct. 29;—Am. 1941, p. 478, Act 275, Imd. Eff. Jun. 17;—CL 1948, 28.103;—Am. 1957, p. 56, Act 51, Imd. Eff. May 17;—Am. 1958, p. 98, Act 91, Eff. Sep. 13;—Am. 1965, p. 284, Act 165, Imd. Eff. Jul. 15.

28.104 Repealed. 1958, p. 98, Act 91, Eff. Sep. 13.

Section provided for payment of medical expenses for members of the public safety department.

28.105 Pension fund; eligibility; involuntary retirement, hearing, appeal.

Sec. 5. Every member of the Michigan department of public safety who has subscribed to the constitutional oath of office and who has served 25 years, or who has been totally, or partially, disabled in line of duty shall be entitled to be retired and to receive a pension as provided in section 7 of this act: Provided, however, That on and

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after January 1, 1958, every member of the department who has subscribed to the constitutional oath of office and who has completed 25 years of service and who has attained the age of 56 years shall retire. Such retirement shall be on order of the commissioner and upon request of the member to be retired, or at the discretion of the commissioner. In the event the commissioner orders the retirement of any member eligible to retirement, for reason or reasons other than for having attained the age of 56 years, and such member shall consider himself aggrieved by such order, the member so affected shall be entitled to appeal to the board of review. Such appeal shall be in writing and filed with the secretary of state within 30 days after receipt of such order of retirement. The board of review shall consist of the secretary of state, who shall be its chairman, the attorney general, the auditor general, the state treasurer, and the superintendent of public instruction. Said board shall set the appeal for hearing within 30 days after the filing of such appeal; and shall review the facts as presented and determine whether such order of retirement shall continue or be revoked. Such determination shall be binding on the commissioner and the member so appealing.

HISTORY: CL 1948, 28.105;—Am. 1956, p. 280, Act 146, Imd. Eff. Apr. 16.

CITED IN OTHER SECTIONS: The above section is cited in § 16.206.

28.106 Pension fund; length of service, computation; contributions.

Sec. 6. (a) In computing the length of service under this act, such service shall include any service with the Michigan state troops, permanent force, as established by Act No. 53 of the Public Acts of 1917; service with the Michigan state police as established by Act No. 26 of the Public Acts of 1919; service with the Michigan department of public safety as established by Act No. 123 of the Public Acts of 1921; and service in the Michigan insurance department as established by Act No. 256 of the Public Acts of 1917, in any position the duties of which may have been transferred to the Michigan state police. A member receiving such credit for service with the insurance department shall pay into the Michigan department of public safety pension, accident and disability fund, a sum equal to the amount his contributions would have been had he become a member of the said Michigan department of public safety pension, accident and disability fund immediately upon his employment by the insurance department.

Total disability.

(b) The term "total disability" shall be construed to mean the loss of eyesight, speech, right arm, both legs, or any other injury, or the contracting of any disease, or illness, as a result of occupation while in the performance of duty, which shall totally disable such person for the performance of manual labor, or the loss of such physical facilities, or any other injury, or the contracting of any disease, or illness, not as a result of occupation while in the performance of duty, which shall permanently totally disable such person for the performance of manual labor or gainful employment.

Partial disability.

(c) The term "partial disability" shall be construed to mean the loss of hearing, nose, 1 eye, 1 leg, left arm, fingers on either hand, or any other member of the body which comes within the common law of mayhem, or any other injury which shall partially disable such person for the performance of manual labor; also the contracting of any disease, or illness, as the result of occupation while in the performance of duty which shall render such member temporarily incapable of performing his duties.

Applicant for disability pension; physical examination.

(d) The commissioner of the state department of health, and 2 other reputable physicians, 1 to be appointed by the commissioner of the department of public safety, and 1 by the applicant, shall examine every applicant for a pension on the grounds of disability, and shall determine whether or not total or partial disability exists, and if par-

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tial, the extent thereof, and shall certify the results of their findings to the commissioner of the Michigan state police and the state administrative board, which findings shall be binding upon the commissioner and the state administrative board.

HISTORY: CL 1948, 28.106;—Am. 1957, p. 145, Act 126, Eff. Sep. 27;—Am. 1965, p. 37, Act 23, Imd. Eff. Apr. 22.

28.107 Pension fund; amount of pension in event of retirement, disability or death; payment to dependents.

Sec. 7. (a) Every member who has been retired following 25 years of service, or because of duty incurred total disability, shall receive an annual pension payable monthly, equal to 50% of the average annual salary for the last 2 years of service for which such member was paid. In event of death of such retired member of the Michigan department of public safety, such pension shall continue to be paid to the surviving spouse of the deceased member for the rest of his or her natural life, or until he or she remarries. In the event of nonduty incurred total disability before retirement, but after a member of the department shall have completed 15 years of service, the totally disabled member shall receive a pension during the period of total disability and upon such member's death his or her spouse shall receive a pension for the rest of his or her natural life, or until he or she remarries, which pension shall be equal to the pension which such member would have received had he been eligible to retire or had been retired on the day of his death. As of the effective date of this 1967 amendatory act, a deceased member's widow shall be eligible to receive a pension in accordance with subsection (a) of this section provided she has not remarried since the death of the member and the deceased member had completed 15 years of service and was a member at the time of his death. If the member at the time of nonduty incurred total disability or his death had less than 25 years of service credit, the benefit payable to him or to the surviving spouse, or children under 18 years of age if there is no surviving spouse, shall be an amount equal to 50% of the average annual salary for the last 2 years of service for which the member was paid, reduced by an amount which is 0.5% of the benefit multiplied by the number of months and fraction of a month the service credit is less than 25 years. If there is no surviving spouse, then the pension shall be paid to the children, if any, of such member under the age of 18 years, and all payments to such children shall continue until they attain the age of 18 years, respectively. In no event shall the pension payable either to the spouse or children be more than an amount which, when added to the statutory workmen's compensation benefits applicable in the case, exceeds the average annual salary paid to the member for his past 2 years of service.

Partial disability; pensions, medical examination.

(b) Every member retired because of partial disability shall receive an annual pension payable monthly in such amount as the director shall recommend. Such pensions shall not equal the pension that would be paid such member if he were retired because of total disability, and such pension shall be paid to the retired member during the term of his natural life, or until such disability no longer exists. The director may require such totally or partially disabled member to submit to a medical examination from time to time, and if the examiners find that such member is no longer so disabled, such member may be ordered by the director to return to active duty. Any retired member who shall fail to return to duty following such order shall forfeit all rights and claims under this act.

Death before retirement and eligibility for pension, refund of contributions.

(c) Any person who dies, or has died, before retirement and before becoming eligible for a pension under subsection (a) of this section shall have paid from the department of public safety pension, accident and disability fund into his estate or to his le-

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gal representatives or surviving spouse the total of the contributions made by him into the fund.

HISTORY: CL 1948, 28.107;—Am. 1956, p. 281, Act 146, Imd. Eff. Apr. 16;—Am. 1958, p. 208, Act 179, Eff. Sep. 13;—Am. 1965, p. 37, Act 23, Imd. Eff. Apr. 22;—Am. 1967, p. 299, Act 207, Imd. Eff. Jul. 10.

28.108 Pension fund; payment to surviving dependents; funeral expenses.

Sec. 8. A pension shall be paid to the widow of any member of the Michigan department of public safety who has subscribed to the constitutional oath of office, and who while in the discharge of his duty shall be killed, or receive such injuries or shall contract such disease or illness, by reason of his occupation which shall result in his death. Such pension shall be in the same amount as would have been paid such member if he were retired because of total disability, which sum shall be paid to her during the term of her natural life, or until she remarries, in which case all payments of such pension to such widow shall cease. Upon the death of the widow, if she has not remarried or if there is no widow at the time of the death of the member, the pension shall be paid to the children of the member under the age of 18 years share and share alike. When each respective child shall attain the age of 18 years, payment to him shall cease and his share shall be prorated among the remaining children under 18 years of age. If no pension is otherwise payable to the children under this act, a pension of $10.00 per month shall be paid to each of the children, if any, of such member, under the age of 18 years, and all payments to such children shall continue until they reach the age of 18 years, respectively. If there is no widow, nor children under the age of 18 years, then a pension equal to the sum allowed such member under section 5 shall be paid to the mother, or father, of such member, if dependent on him for support, until such dependency ceases. If there is no dependent mother, or father, then a pension of $10.00 per month shall be paid to each of the sisters, or brothers, if there are any under 18 years of age dependent upon such member for support. If there are no dependents, then the sum of $1,500.00 shall be paid to the next of kin of such deceased member. Whenever an active, or retired, member shall be killed, or dies, from injuries, disease, or illness, contracted by reason of his occupation as a member of the Michigan department of public safety, the commissioner of the Michigan department of public safety, with the approval of the state administrative board, shall provide a sum not to exceed $500.00 from the Michigan department of public safety pension, accident and disability fund for funeral expenses.

HISTORY: CL 1948, 28.108;—Am. 1969, p. 484, Act 253, Imd. Eff. Aug. 11.

28.109 Pension fund; rewards credited to fund.

Sec. 9. All rewards offered, or due, to the members of the Michigan department of public safety, shall be paid into the state treasury to the credit of the Michigan department of public safety pension, accident and disability fund.

HISTORY: CL 1948, 28.109.

28.110 Pensions exempt from legal process.

Sec. 10. No pension under the provisions of this act, either before, or after, its order of distribution, shall be held, seized, taken, detained, or levied on by virtue of any legal process issued out of any court against the beneficiary, but the same shall be paid directly to the beneficiary thereof.

HISTORY: CL 1948, 28.110.

Sec. 11. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 12. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 134, 1927, CL 1929, 232-234.

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Act 79, 1939, p. 135; Eff. Sep. 29.

AN ACT to authorize the use of certified copies of the records and papers, and certification of no records and papers, in the files of the Michigan state police in judicial and other proceedings; and to declare the effect thereof. Am. 1941, p. 39, Act 42, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

28.201 Certified copies of state police records admissible as evidence.

Sec. 1. Copies, including photostatic copies, of all records and papers in the files of the Michigan state police, certified as true copies by the commissioner of the Michigan state police, shall be evidence in all cases equally and with like effect as the originals. A statement similarly certified as true by the commissioner of the Michigan state police that no records and papers are in the files of the Michigan state police with respect to a particular matter shall be evidence in all cases equally and with like effect as testimony to that effect by any member or employe of the Michigan state police.

HISTORY: Am. 1941, p. 39, Act 42, Eff. Jan. 10, 1942;—CL 1948, 28.201.

28.202 Construction of act.

Sec. 2. This act shall be construed to supplement the law of this state with respect to evidence and its admissibility.

HISTORY: CL 1948, 28.202.

Act 211, 1925, p. 310; Eff. Aug. 27.

AN ACT to authorize the department of public safety to establish and conduct a training school to be known as the Michigan training school for peace officers for the instruction of law enforcing officers. Am. 1931, p. 548, Act 322, Imd. Eff. Jun. 16.

The People of the State of Michigan enact:

28.221 Training school for peace officers; creation, location, subjects.

Sec. 1. The department of public safety is hereby authorized to establish and conduct a school for the instruction of law enforcing officers of this state and of the several counties, townships, cities and villages thereof, such school to be known as the Michigan training school for peace officers and to be conducted and the sessions and periods thereof to be held at East Lansing and at such other places in the state as the commissioner of public safety shall designate. Provision shall be made for instruction in the following subjects and such others as the commissioner of public safety shall deem expedient.

(a) Identification of criminals and fingerprinting;

(b) Methods of crime investigation;

(c) Rules of criminal evidence;

(d) Presentation of cases in courts;

(e) Making of complaints and securing of criminal warrants;

(f) Securing and use of search warrants;

(g) Enforcement of general criminal laws;

(h) Small arms instruction;

(i) Regulation of traffic and uniformity in enforcement;

(j) First aid;

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(k) Ethics of the police profession;

(l) Courtesy in performance of duty;

(m) Jui Jitsu;

(n) Extent of police authority;

(o) Confessions and statements.

HISTORY: CL 1929, 563;—Am. 1931, p. 548, Act 322, Imd. Eff. June 16;—CL 1948, 28.221.

28.222 Training school; instructors and students, expenses.

Sec. 2. The commissioner of public safety shall appoint the instructor or instructors of such school and may call upon members of any state department or any instructor or professor in any state educational institution, to act as instructor or lecturer in such school, and may pay the reasonable expenses of such person while in attendance. The legislative body of any county, township, city or village may authorize the attendance at such school of any law enforcing officer under the jurisdiction of such county, township, city or village, and may provide for the payment of the expenses of such person while in attendance which payment shall be made out of the general fund of such county, township, city or village.

HISTORY: CL 1929, 564;—Am. 1931, p. 549, Act 322, Imd. Eff. June 16;—CL 1948, 28.222.

28.223 Training school; students, lodging.

Sec. 3. The department of public safety may provide board and lodging for persons in attendance at such school, the cost thereof to be borne by the student or by the county, township, city or village authorizing his attendance at such school.

HISTORY: CL 1929, 565;—CL 1948, 28.223.

28.224 Training school; diplomas.

Sec. 4. To each person satisfactorily completing the course of study prescribed, the commissioner of public safety shall issue a certificate of graduation or diploma stating that the holder has graduated from the Michigan training school for peace officers.

HISTORY: CL 1929, 566;—Am. 1931, p. 549, Act 322, Imd. Eff. June 16;—CL 1948, 28.224.

28.225 Training school; municipal police protection during operation of school.

Sec. 5. The commissioner of public safety may upon the written request of the legislative body of any county, township, city or village sending officers to said school, for assistance during the absence of its regular officers while in attendance at said school, furnish members of the department of public safety, without expense to such county, township, city or village. Such members of the department of public safety, when so assigned, shall be under the direction and authority of the chief law enforcing officer of the county, township, city or village in which they are serving.

HISTORY: Add. 1931, p. 549, Act 322, Imd. Eff. June 16;—CL 1948, 28.225.

Act 289, 1925, p. 427; Imd. Eff. May 13.

AN ACT to create a bureau of criminal identification, records and statistics within the department of public safety; to provide for a director thereof; to prescribe his duties; to require peace officers, persons in charge of certain institutions and others, to make reports respecting crimes and criminals to such bureau and to provide a penalty for violation of the provisions thereof. Am. 1931, p. 323, Act 197, Imd. Eff. May 28.

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The People of the State of Michigan enact:

28.241 Bureau of criminal identification, records and statistics; creation under department of public safety.

Sec. 1. A bureau of criminal identification, records and statistics is hereby created under the supervision of the department of public safety. The commissioner of public safety shall appoint a person to have direction and control of such bureau, in the same manner as other deputies, assistants and employes of such department are appointed. Such bureau shall be supplied with necessary apparatus and materials for collecting, filing and preserving criminal records filed with the bureau.

HISTORY: CL 1929, 567;—Am. 1931, p. 323, Act 197, Imd. Eff. May 28;—CL 1948, 28.241.

IDENTIFICATION: See Acts 183 of 1891 and 27 of 1903, being Compilers' § 800.201 et seq.

28.242 Bureau of identification; duties of director.

Sec. 2. The director of such bureau shall procure and file for record, photographs, pictures, descriptions, finger prints, measurements and such other information as may be pertinent, of all persons who have been or may hereafter be convicted of a felony or of a misdemeanor not cognizable by a justice of the peace within the state and also of all well known and habitual criminals wheresoever the same may be procured. The director of such bureau shall collect information concerning the number and nature of offenses known to have been committed in this state, of the legal steps taken in connection therewith from the inception of the complaint to the final discharge of the defendant, and such other information as may be useful in the study of crime and the administration of justice; this information to comprise only such crimes, legal steps, and information as the director of the bureau may designate. The information so collected shall include such data as may be required by the United States department of justice at Washington under its national system of crime reporting. It shall be the duty of the director to provide all reporting officials with forms and instructions which specify in detail the nature of the information required, the time it is to be forwarded, the method of classifying, and such other matters as shall facilitate its collection and compilation. The director shall also cooperate with and assist sheriffs, chiefs of police and other law officers in the establishment of a complete state system of criminal identification and in obtaining finger prints and other means of identification of all persons arrested on a complaint of felony or of a misdemeanor not cognizable by a justice of the peace. He shall also file for record the finger print impressions of all persons confined in any workhouse, jail, reformatory, penitentiary or other penal institution.

HISTORY: CL 1929, 568;—Am. 1931, p. 323, Act 197, Imd. Eff. May 28;—Am. 1937, p. 329, Act 205, Eff. Oct. 29;—CL 1948, 28.242.

28.243 Fingerprints and description of persons arrested; return upon release or acquittal.

Sec. 3. It is hereby made the duty of the sheriffs of the several counties of this state, chiefs of police of the cities, and village marshals, immediately upon the arrest of any person for a felony or of a misdemeanor not cognizable by a justice of the peace, to take his fingerprints, in duplicate, 1 set of fingerprints, according to the fingerprint system of identification established by the director of said bureau and on forms furnished by him, and 1 set of fingerprints according to the fingerprint system of identification established by the director of the federal bureau of investigation at Washington, D.C., on forms furnished by him, and forward the same, together with such other descriptions and information as may be required to such bureaus for filing and classification. Should any person accused thereafter be released without a charge made against him, it shall be the mandatory duty of the official taking or holding any accused's fingerprints, arrest card and description to return same forthwith without the necessity of a request therefor. If not so returned, the accused so released shall have the absolute right to demand and receive such return at any time after such release and without

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need to petition for court action. Should any accused thereafter be found not guilty of the offense charged against him, the arrest card, the fingerprints and description shall be returned to him by a court order signed by the trial court and directed to the official holding same, which order shall issue automatically upon such finding of not guilty without the necessity of request therefor. If for any reason such order of return shall not issue upon a finding of not guilty, the accused shall have the absolute right to such return, upon request, at any time after such acquittal. Should such order of return be refused such acquitted, the accused shall have the right to petition the circuit court of the county wherein the original charge was made for a preemptory writ of mandamus to require issuance of such order of return. It is hereby made the duty of the clerk of any court, the arresting officer, or such other official as the director may designate, to immediately advise the director of the bureau and the director of the federal bureau of investigation the final disposition of the arrest for which the accused was fingerprinted. The director shall compare the fingerprints and description received with those already on file in the bureau and if he finds that the person arrested has a criminal record or is a fugitive from justice, he shall at once inform the arresting officer of such fact. It shall be the duty of every police department, sheriff, constable or other police agency; of clerks, justices, or other appropriate official for all criminal courts; of prosecuting, probation and parole officers; of every head of a department, board, commission, bureau or institution of the state or any political subdivision thereof, having to do directly or indirectly with crime or criminals; or of any other person who by reason of his office is qualified to furnish the data required, to render to the director the information required in conformity with section 2 hereof: Provided, That where the sheriff or other county officer is designated by the director as the person to whom the information is to be reported, it shall be the duty of the appropriate officials to report such information to him. The county officer so designated shall compile this information in such manner as the director may determine and forward a consolidated report to the director.

Same; exceptions to obligation to return.

The provisions of this section requiring the return of the fingerprints, arrest card and description shall not apply (1) where the person arrested has any prior conviction excepting misdemeanor traffic offenses or (2) where the person arrested was charged with the commission or attempted commission, with or against a child under the age of 16 years, of the crime of rape, sodomy, gross indecency, or indecent liberties unless a judge of any court of record, excepting the probate court, by express order entered of record, orders the return.

HISTORY: Am. 1929, p. 515, Act 197, Imd. Eff. May 20;—CL 1929, 569;—Am. 1931, p. 324, Act 197, Imd. Eff. May 28;—Am. 1937, p. 329, Act 205, Eff. Oct. 29;—CL 1948, 28.243;—Am. 1951, p. 131, Act 99, Eff. Sep. 23;—Am. 1958, p. 98, Act 92, Eff. Sep. 13;—Am. 1959, p. 250, Act 176, Eff. Mar. 19, 1960.

28.243a Fingerprinting; refusal, penalty.

Sec. 3a. Any person required to have his fingerprints taken under section 3 who refuses to allow or resists the taking of his fingerprints is guilty of a misdemeanor. Such person must be advised that his refusal constitutes a misdemeanor.

HISTORY: Add. 1968, p. 266, Act 174, Eff. Nov. 15.

28.244 Bureau of identification; cooperation with state and national bureaus.

Sec. 4. It shall be the duty of the director to cooperate with the bureaus in other states and with the national bureau in the department of justice in Washington, to develop and carry on a complete interstate, national and international system of criminal identification, records and statistics.

HISTORY: CL 1929, 570;—Am. 1931, p. 324, Act 197, Imd. Eff. May 28;—CL 1948, 28.244.

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28.245 Local bureaus of identification; establishment.

Sec. 5. It shall be the duty of the superintendent to offer assistance and when practicable, instruction, to sheriffs, chiefs of police and other peace officers in establishing an efficient local bureau of identification in their districts.

HISTORY: CL 1929, 571;—CL 1948, 28.245.

28.246 Bureau of identification; officers, neglect of duties, penalty.

Sec. 6. Neglect or refusal of any of the officers herein mentioned, to make the report required herein or to do or perform any other act on his part to be done or performed, shall constitute a misdemeanor and such officer shall upon conviction thereof, be punished by a fine of not less than 5 nor more than 25 dollars, or by imprisonment in the county jail for a period of not exceeding 30 days or by both such fine and imprisonment in the discretion of the court. Such neglect or refusal shall also constitute nonfeasance in office and subject the officer to removal from office.

HISTORY: CL 1929, 572;—CL 1948, 28.246.

28.247 Reports by sheriffs and police chiefs as to persons accused of sexually motivated crimes; confidentiality, violation, penalty.

Sec. 7. The sheriff of every county and the chief executive officer of the police department of every city, village and township shall make such reports of accused persons against whom a warrant has been issued and the disposition thereof in sexually motivated crimes verified as such and the disposition of cases resulting therefrom to the commissioner as he may require on forms provided by him. The commissioner shall file such reports or copies thereof in a separate confidential filing system and such reports shall be available for examination only by the attorney general, any prosecuting attorney, any court of record, sheriffs, and the chief executive officer of the police department of any city, village or township and their authorized officers and by them held confidential except for official use. Any person who violates any of the confidential provisions of this section shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year and/or by a fine of not more than $500.00.

HISTORY: Add. 1955, p. 197, Act 132, Imd. Eff. Jun. 7.

Original section 7 of Act 289, 1929, p. 427, was a severing clause section and was repealed by Act 267 of 1945.

28.248 Bureau of identification; director's reports and recommendations.

Sec. 8. Annually, and at such other times as he may determine, the director shall prepare and publish reports and releases containing the information gathered through the provisions of this act. In so far as possible, these reports and releases shall present an accurate picture of the crime situation in this state, and of the operation of the agencies of justice in connection therewith, employing for this purpose such tables, graphs, diagrams and comment as may be appropriate. The director shall point out what he considers to be the pertinent factors with regard to the enforcement of criminal law and recommend such measures as he may deem helpful and constructive with reference thereto. Upon request, or upon his own initiative the director shall advise reporting officials, or other appropriate persons, concerning any information included in the foregoing provisions.

HISTORY: Add. 1931, p. 324, Act 197, Imd. Eff. May 28;—CL 1948, 28.248.

28.249 Access to public records and documents.

Sec. 9. Every person who has custody or charge of public records or documents, from which information sought in respect to this act can be obtained, shall grant to any person deputed by the director, free access thereto for obtaining such information.

HISTORY: Add. 1931, p. 325, Act 197, Imd. Eff. May 28;—CL 1948, 28.249.

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Act 319, 1968, p. 562; Imd. Eff. Jul. 3.

AN ACT to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; and to vest the director of the department of state police with the authority to prescribe the reporting form and its content.

The People of the State of Michigan enact:

28.251 Uniform crime reports; duties of police departments to file, contents.

Sec. 1. The police department of each city or village, any duly constituted police department of a township, and the sheriff's department of each county, once each month upon a date and form prescribed and furnished by the director of the department of state police, shall forward to the department of state police a crime report. Each reporting department shall report only on cases within its jurisdiction and upon which it is making, or has made, the primary police investigation. The report shall be called the uniform crime report and shall cover crimes reported and otherwise processed during the month preceding the month of the report. It shall contain the number and nature of offenses committed, the disposition of such offenses and such other information as the director of state police shall specify relating to the method, frequency, cause and prevention of crime. Under no circumstances shall the name of any person be reported.

HISTORY: New 1968, p. 562, Act 319, Imd. Eff. Jul. 3.

28.252 Compilation of monthly uniform crime reports; use.

Sec. 2. Upon receipt of the monthly uniform crime reports from the reporting agencies, the department of state police shall prepare a statewide compilation of the statistics contained therein and the resulting statistical compilation shall be available to any governmental law enforcement agency in the state, the judiciary committees of the Michigan state senate and the Michigan state house of representatives, and the federal bureau of investigation, upon request. The statistics made available through the uniform crime report shall be used for the purpose of studying the causes, trends and effects of crime in this state and for intelligence upon which to base a more sound program of crime detection and prevention and the apprehension of criminals.

HISTORY: New 1968, p. 562, Act 319, Imd. Eff. Jul. 3.

28.253 Voluntary crime reports; inclusion in compilation.

Sec. 3. Any governmental police agency, not falling within the description of those required to submit the monthly uniform crime report set forth in section 1, which desires to submit such a report, shall be furnished with the proper forms by the department of state police. When a report is received by the department of state police from a governmental police agency not required to make such report, the information contained therein shall be included within the monthly compilation provided for in section 2.

HISTORY: New 1968, p. 562, Act 319, Imd. Eff. Jul. 3.

28.254 Reports of wanted persons and stolen vehicles.

Sec. 4. The chief of police of each city or village and of each township having a police department, and the sheriff of each county within this state, shall report to the department of state police, in a manner prescribed by the department, all persons wanted by, and all vehicles stolen from, their primary police jurisdictions. The report shall be made as soon as is practical after the investigating department either ascertains that a vehicle is stolen or obtains a warrant for an individual's arrest or deter-

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mines that they have reasonable grounds to believe that the individual committed a crime. In no case shall this time exceed 12 hours after the reporting agency determines that it has grounds to believe that a vehicle was stolen or that the wanted person should be arrested.

HISTORY: New 1968, p. 562, Act 319, Imd. Eff. Jul. 3.

28.255 Reports of apprehension or recovery.

Sec. 5. When at any time after making a report required by section 4 it is determined by the reporting agency that a person is no longer wanted because of his apprehension, or any other factor, and when a vehicle reported stolen under section 4 is recovered, the chief of police or sheriff of the reporting agency shall immediately notify the department of state police in a manner prescribed by the department.

HISTORY: New 1968, p. 563, Act 319, Imd. Eff. Jul. 3.

28.256 Inapplicability of act as to traffic misdemeanors.

Sec. 6. The provisions of this act do not apply to misdemeanor traffic cases or to persons wanted for misdemeanor traffic offenses, or for the violation of any city, village or township ordinance. The provisions of this act shall not be construed to in any way affect existing or future laws and procedures governing the reporting of persons wanted for traffic law violations or for the violation of city, village or township ordinances.

HISTORY: New 1968, p. 563, Act 319, Imd. Eff. Jul. 3.

Act 86, 1935, p. 139; Imd. Eff. May 27.

AN ACT to provide for the compulsory finger-printing of inmates of certain state institutions, and to provide for the recording and filing thereof by the bureau of identification of the department of public safety.

The People of the State of Michigan enact:

28.261 Compulsory fingerprinting of inmates of insane, penal, and correctional institutions.

Sec. 1. Any person entering into and each and every person now confined in any state institution for the insane, feeble-minded or epileptic or penal or correctional institution shall be required to have an impression of his finger prints made. It shall be the duty of the superintendent of the admitting or confining institution to see that the provisions of this section are complied with and that at least 2 copies of the impression are made: One for the files of the institution and the other to be forwarded to the bureau of identification of the department of public safety.

HISTORY: CL 1948, 28.261.

28.262 Bureau of identification filing system for fingerprints of inmates of state institutions; purpose, equipment, supplies.

Sec. 2. It shall be the duty of the bureau of identification to install and maintain a filing system for the purpose of recording and preserving the various impressions received by it by virtue of the terms of this act, said filing system to be separated from the system now employed by the bureau for the recording and preserving of fingerprint impressions of criminals. The equipment and supplies for the proper carrying out of this act shall be furnished by the department of public safety.

HISTORY: CL 1948, 28.262.

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Act 120, 1935, p. 195; Eff. Sep. 21.

AN ACT to prescribe a method for the fingerprinting of residents of the state, and to provide for the recording and filing thereof by the bureau of identification of the department of public safety.

The People of the State of Michigan enact:

28.271 Fingerprints of state residents; copies.

Sec. 1. Whenever a resident of this state shall appear before any sheriff or police agency for the county in which he resides, and request an impression of his fingerprints, it shall be the duty of the agency to comply with the request and make at least 2 copies of the impression, 1 for the files of the local police and the other to be forwarded to the bureau of identification of the department of public safety.

HISTORY: CL 1948, 28.271.

28.272 Bureau of identification filing system for fingerprints of state residents; purpose, equipment, supplies.

Sec. 2. It shall be the duty of the bureau of identification to install and maintain a filing system for the purpose of recording and preserving the various impressions received by it by virtue of the terms of this act, said filing system to be distinguished from the system now employed by the bureau for the recording and preserving of fingerprints of criminals. The equipment and supplies for the proper carrying out of this act shall be furnished by the department of public safety.

HISTORY: Am. 1943, p. 233, Act 170, Imd. Eff. April 17;—CL 1948, 28.272.

Act 152, 1929, p. 344; Eff. Aug. 28.

AN ACT to provide for a state-owned and operated radio broadcasting station for police purposes only, and to provide for radio receiving sets to be used in connection therewith; to provide for the purchase of materials and the construction of the necessary apparatus, or the purchase of the required equipment; and to define the powers and duties of the commissioner of the Michigan state police hereunder. Am. 1945, p. 59, Act 62, Eff. Sep. 6.

The People of the State of Michigan enact:

28.281 State-owned radio broadcasting stations; establishment for police purposes; location, construction.

Sec. 1. The state administrative board is hereby authorized and empowered to purchase the necessary apparatus and equipment, and to construct or establish 1 or more radio broadcasting stations 1 of which shall be erected or established at East Lansing, Michigan, such radio broadcasting station or stations shall be used for police purposes only. Said board is further authorized and empowered to purchase materials for the construction of radio receiving sets and to direct and require the construction of such sets in some state-owned institution to be designated by such board: Provided, however, That if the purchase of material and the construction of such sets as herein permitted, shall, for any reason, be inadvisable, impractical or undesirable, said board may authorize the purchase of completed sets.

HISTORY: CL 1929, 574;—CL 1948, 28.281.

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28.282 State radio stations; operation, maintenance.

Sec. 2. The commissioner of the Michigan state police is hereby charged with the operation, maintenance and conduct of the said radio broadcasting station or stations.

HISTORY: CL 1929, 575;—Am. 1945, p. 59, Act 62, Eff. Sept. 6;—CL 1948, 28.282.

28.283 State radio stations; police dispatches and reports broadcasted.

Sec. 3. It shall be the duty of the commissioner of the Michigan state police to broadcast all police dispatches and reports submitted, which in his opinion shall have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime, or the maintenance of peace and order in this state, it being the intention of this act to aid and assist peace officers in the discharge of their duties.

HISTORY: CL 1929, 576;—Am. 1945, p. 59, Act 62, Eff. Sept. 6;—CL 1948, 28.283.

Secs. 4-6.

HISTORY: CL 1929, 577-579;—Rep. 1931, p. 755, Act 328, Eff. Sept. 18.

These sections were penalty sections, now covered by Compilers' §§ 750.507-750.510.

28.287 State radio stations; purchase of sets, employment of operators; expenses.

Sec. 7. The commissioner of the department of public safety is hereby authorized and empowered to purchase or secure such radio receiving sets as he may deem necessary or desirable for use in the department of public safety, and may employ such radio operators, assistants, or radio maintenance men, as may be necessary to carry out the purposes of this act, subject to the approval of the state administrative board, and the cost of the maintenance and operation of the radio broadcasting station or stations and radio receiving sets owned and operated by the state, as herein provided, shall be paid out of the general appropriation for the said department of public safety.

HISTORY: CL 1929, 580;—CL 1948, 28.287.

Sec. 8. (This was an appropriation section.)

HISTORY: CL 1929, 581;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

Sec. 9. (This was a severing clause section.)

HISTORY: CL 1929, 582;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

28.301-28.317 Repealed. 1952, p. 47, Act 47, Eff. Sep. 18.

Sections provided for regulation of kerosene used for illumination.

Act 203, 1937, p. 326; Eff. Oct. 29.

AN ACT to provide for the disposition and sale of stolen property recovered by the Michigan state police; and to provide for the disposition of the proceeds of sale.

The People of the State of Michigan enact:

28.401 Stolen property recovered by state police; holding period.

Sec. 1. The provisions of this act shall apply to any stolen money or other property recovered by the Michigan state police which shall not be claimed within 6 months after said recovery.

HISTORY: CL 1948, 28.401.

CITED IN OTHER SECTIONS: Sections 28.401 to 28.406 are cited in § 434.152.

28.402 Stolen property recovered and unclaimed; report to state administrative board.

Sec. 2. Forthwith after the expiration of said 6 months period, the commissioner of the Michigan state police shall report to the state administrative board, listing the money or other property so recovered and held, and requesting authority from the state administrative board to turn any money over to the state treasurer to be credited

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to the general fund and requesting authority from the state administrative board to sell at public sale any other property so recovered and held.

HISTORY: CL 1948, 28.402.

28.403 Stolen property; authority for sale; publication of notice.

Sec. 3. The state administrative board shall act on the request of the commissioner of the Michigan state police within 6 months after the receipt of such request. In case authority is granted to the commissioner of the Michigan state police to turn any money so recovered and held over to the state treasurer or to sell any other property so recovered and held, the commissioner of the Michigan state police shall post 3 notices in the county in which the stolen money or other property was recovered, and also publish notice in a newspaper of general circulation in such county by insertions in 2 issues of said newspaper. Said notice shall describe the money so recovered and held and also the other property so recovered and held, together with the time and place of public sale at which said other property may be purchased by the highest bidder. Up until the said date of sale, the money or other property may be claimed at the East Lansing post of the Michigan state police, and if ownership is proved, such money or other property shall be turned over to the claimant, and the sale cancelled insofar as such property is concerned.

HISTORY: CL 1948, 28.403.

28.404 Stolen property; receipts from sale credited to general fund.

Sec. 4. After the holding of any such sale, the money received from such sale, after deducting the cost of the conducting thereof, and any other money recovered and held included in the notice provided for in section 3, shall be turned over to the state treasurer to be credited to the general fund of the state.

HISTORY: CL 1948, 28.404.

28.405 Stolen property; claim invalid after notice and sale.

Sec. 5. Except as provided in section 6 hereof, no claim shall be valid to obtain any money or other property recovered by the Michigan state police, after notice and sale as provided in section 3 of this act, said property and money being considered as abandoned and belonging to the state of Michigan.

HISTORY: CL 1948, 28.405.

28.406 Stolen property; claim proved after notice and sale.

Sec. 6. Provided, however, That the owner of the stolen property may prove his claim by proving the identity of the property and be reimbursed from the state treasurer in an amount not to exceed the amount paid for such goods at said sale, if such proof is accepted by the administrative board after the sale: Provided, however, That such claim shall have been filed with the state administrative board not later than 6 months after such sale.

HISTORY: CL 1948, 28.406.

Act 294, 1945, p. 502; Eff. Sep. 6.

AN ACT to provide for the reporting of certain stolen and recovered personal property to the Michigan state police; and to prescribe the powers and duties of the Michigan state police and law enforcement officers with respect thereto.

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The People of the State of Michigan enact:

28.411 Stolen and recovered personal property; report to state police, form.

Sec. 1. It shall be the duty of all law enforcement officers to report to the Michigan state police all stolen and all recovered personal property of a value of $25.00 or over: Provided, That a report shall not be required with respect to personal property recovered, and the owner thereof known, within 48 hours of the receipt of the report of such stolen personal property. Such reports shall be made upon forms prescribed and furnished by the Michigan state police, within 48 hours of the receipt of the report of such stolen or recovered personal property.

HISTORY: CL 1948, 28.411.

28.412 Stolen and recovered personal property; records and files maintained.

Sec. 2. The commissioner of the Michigan state police shall maintain adequate records and files with respect to such stolen and recovered personal property, and shall report the recovery thereof to the law enforcement officer reporting the personal property as stolen. Such records and files shall be available to law enforcement officers.

HISTORY: CL 1948, 28.412.

28.413 Motor vehicles excepted from act.

Sec. 3. The provisions of this act shall not cover or apply to stolen and recovered motor vehicles.

HISTORY: CL 1948, 28.413.

Act 372, 1927, p. 887; Eff. Sep. 5.

AN ACT to regulate and license the selling, purchasing, possessing and carrying of certain firearms; to prohibit the buying, selling or carrying of certain firearms without a license therefor; and to repeal all acts and parts of acts inconsistent with the provisions of this act. Am. 1929, p. 528, Act 206, Imd. Eff. May 20;—Am. 1931, p. 771, Act 333, Imd. Eff. Jun. 16.

The People of the State of Michigan enact:

28.421 Firearms; definitions.

Sec. 1. As used in this act:

(a) "Pistol" means any firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm.

(b) "Purchaser" means any person who receives a pistol from another by purchase, gift or loan.

(c) "Seller" means any person who sells, furnishes, loans or gives a pistol to another.

HISTORY: CL 1929, 16749;—CL 1948, 28.421;—Am. 1964, p. 285, Act 216, Eff. Aug. 28.

28.422 Pistols; license to purchase, issuance; qualifications; applications, forging; transfers; exemptions.

Sec. 2. No person shall purchase, carry or transport a pistol without first having obtained a license therefor as prescribed herein, except that any person who brings a pistol into this state and who is either on leave from active duty with the armed forces of the United States or who has been discharged from such active duty shall obtain a license for said pistol within 5 days after his arrival into this state. The commissioner or

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chief of police, or his duly authorized deputy, in incorporated cities or in incorporated villages having an organized department of police, and the sheriff, or his authorized deputy, in parts of the respective counties not included within incorporated cities or villages, may issue licenses to purchase, carry or transport pistols to applicants residing within the respective territories herein mentioned. No such license shall be granted to any person unless he is 21 years of age or over, a citizen of the United States and has resided in this state 6 months or more, and in no event shall such a license be issued to a person who has been convicted of a felony or confined therefor in this state or elsewhere during the 8-year period immediately preceding the date of such application or has been adjudged insane in this state or elsewhere unless he has been restored to sanity and so declared by court order. Applications for such licenses shall be signed by the applicant under oath upon forms provided by the commissioner of the Michigan state police. The forging of any matter on an application is a felony. Licenses to purchase, carry or transport pistols shall be executed in triplicate upon forms provided by the commissioner of the Michigan state police and shall be signed by the licensing authority. Three copies of such license shall be delivered to the applicant by the licensing authority. Upon sale of the pistol the seller shall fill out the license forms describing the pistol sold, together with the date of sale, and sign his name in ink indicating that such pistol was sold to the licensee. The licensee shall also sign his name in ink indicating the purchase of such pistol from the seller. The seller may retain a copy of the license as a record of the sale of the pistol. The licensee shall return 2 copies of the license to the licensing authority within 10 days following the purchase of the pistol. One copy of such license shall be retained by the licensing authority as a permanent official record for a period of 6 years and the other copy shall be forwarded by the licensing authority within 48 hours to the commissioner of the Michigan state police. Such license shall be void unless used within 10 days from the date of its issue. The provisions of this section shall not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, nor to the sale, barter or exchange of pistols kept solely as relics, curios, or antiques not made for modern ammunition or permanently deactivated. The provisions of this section shall not prevent the transfer of ownership of pistols which are inherited provided the license to purchase is approved by the chief of police, sheriff, or their authorized deputies, and signed by the administrator or administratrix of the estate or by the next of kin having authority to dispose of such property.

HISTORY: CL 1929, 16750;—Am. 1931, p. 771, Act 333, Imd. Eff. Jun. 16;—Am. 1941, p. 139, Act 112, Imd. Eff. May 21;—Am. 1943, p. 51, Act 51, Imd. Eff. Mar. 30;—CL 1948, 28.422;—Am. 1949, p. 178, Act 170, Eff. Sep. 23;—Am. 1957, p. 317, Act 259, Eff. Sep. 27;—Am. 1964, p. 285, Act 216, Eff. Aug. 28;—Am. 1967, p. 219, Act 158, Eff. Nov. 2;—Am. 1968, p. 512, Act 301, Eff. Nov. 15.

CITED IN OTHER SECTIONS: The above section is cited in § 750.223.

Secs. 3-5.

HISTORY: Sec. 3 Am. 1929, p. 529, Act 206, Imd. Eff. may 20;—CL 1929, 16751-16753;—Rep. 1931, p. 754, Act 328, Eff. Sept. 18.

These sections were penalty sections, now covered by Compilers' § 750.222 et seq.

28.426 Concealed weapons licensing board; qualifications.

Sec. 6. The prosecuting attorney, the sheriff and the commissioner of the Michigan state police, or their respective authorized deputies, shall constitute boards exclusively authorized to issue licenses to applicants residing within their respective counties, to carry pistols concealed on the person and to carry pistols, whether concealed or otherwise, in any vehicle operated or occupied by said applicants. The county clerk of each county shall be clerk of such licensing boards, which boards shall be known in law as "the concealed weapon licensing board." No such license to carry a pistol concealed on the person or to carry a pistol, whether concealed or otherwise, in any vehicle operated or occupied by the person applying for such license, shall be granted to any person except he be 21 years of age or over, a citizen of the United States, and has resided in this state 6 months or over, and in no event shall such license be issued unless the

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application for the same is first approved in writing by the township supervisor, when said applicant resides in that part of the county not included within an incorporated city or village, or by the commissioner or chief of police or marshal when the applicant resides in an incorporated city or village having an organized department of police, and unless it appears that the applicant has good reason to fear injury to his person or property, or has other proper reasons, and that he is a suitable person to be so licensed, and in no event to a person who has been convicted of a felony or confined therefor in this state or elsewhere during the 8 year period immediately preceding the date of such application or has been adjudged insane unless he has been restored to sanity and so declared by court order.

Fingerprints; license, application, restriction, revocation.

Each such applicant for a license shall have duplicate fingerprints taken by the sheriff, or his authorized representative, of the county in which such applicant resides, if such applicant resides outside of the corporate limits of a city or village having an organized department of police, or by the commissioner or chief of police, or marshal, or his authorized representative, if the applicant resides within the limits of such city or village having an organized department of police, on forms furnished by the commissioner of the Michigan state police, and in accordance with the fingerprint system of identification established by the said commissioner. Both copies of said fingerprints shall be forwarded to the Michigan state police at East Lansing by the officer taking the prints, and 1 copy shall be forwarded by the Michigan state police to the national bureau of identification at Washington, D.C. The director of the bureau of identification of the Michigan state police shall compare the fingerprints with those already on file in the bureau and shall receive a report from the national bureau of identification at Washington, D.C., of a like comparison. No license shall be issued unless and until report is received by the clerk of the board that such comparisons show no conviction of a felony or confinement therefor during the said 8 year period: Provided, That in the event the applicant has been fingerprinted previously in accordance with the provisions of this act, and his fingerprints are on file with the bureau of identification of the Michigan state police and the national bureau of identification in Washington, D.C., reference to such prints may be submitted in lieu thereof, in accordance with regulations pertaining thereto issued by the commissioner of state police: Provided, however, That the board may grant a temporary permit in case of emergency pending the results of such comparisons. Such temporary permit shall be issued for a period of not to exceed 30 days and shall expire automatically at the end of the period for which it was issued. Upon receipt of the report from the national bureau of identification at Washington, D.C., of such comparison, the director of the bureau of identification of the Michigan state police shall forward a report of both comparisons to the officer taking the prints and also to the county clerk of the county in which the applicant resides, who as clerk of the board shall keep a record thereof and report to the board. The fingerprints received under the provisions of this section shall be filed in the bureau of identification of the Michigan state police in the non-criminal section of the files. The application for such a license shall state the reason or reasons for the necessity or desirability of carrying a pistol concealed on the person or a pistol, whether concealed or otherwise, in any vehicle operated or occupied by the person applying for such license, and the license issued, if any, shall be restricted to any such reason or reasons satisfactory to the board, which restriction or restrictions shall appear on the face of the license in a conspicuous place. Any such license shall be authority only to the extent contained in the face thereof and such license shall be revoked by the board in case the pistol is carried contrary to said authorization.

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Concealed weapon license, issuance, fee, contents, files.

The prosecuting attorney shall be the chairman of said board, which shall convene at least once in each calendar month and at such other times as they shall be called to convene by the chairman. Such licenses shall be issued only upon written application signed by the applicant and on his oath and upon forms provided by the commissioner of the Michigan state police. Such licenses shall issue only with the approval of a majority of said board and shall be executed in triplicate upon forms provided by the commissioner of the Michigan state police and shall be signed in the name of the concealed weapon licensing board by the county clerk and the seal of the circuit court affixed thereto. The county clerk shall first collect a licensing fee of $3.00 from the applicant for each such license delivered to the applicant. One copy of such license shall be delivered to the applicant, the duplicate of said license shall be retained by the county clerk as a permanent official record for a period of 6 years, and the triplicate of such license shall be forwarded within 48 hours to the commissioner of the Michigan state police who shall file and index licenses so received by him and keep the same as a permanent official record for a period of 6 years. Each license shall be issued for a definite period of not more than 3 years, to be stated in the license, and no renewal of such license shall be granted except upon the filing of a new application. Every license issued hereunder shall bear the imprint of the right thumb of the licensee, or, if that be not possible, of the left thumb or some other finger of such licensee. Such licensee shall carry such license upon his person at all times when he may be carrying a pistol concealed upon his person, or, whether concealed or otherwise, in any vehicle operated or occupied by such licensee, and shall display such license upon the request of any peace officer. On the first day of each month the county clerk shall remit to the state treasurer $1.00 for each such license issued the preceding month. On the first day of each month the county clerk shall pay into the general fund of the county $2.00 for each such license issued the preceding month.

HISTORY: CL 1929, 16754;—Am. 1931, p. 771, Act 333, Imd. Eff. Jun. 16;—Am. 1939, p. 142, Act 86, Eff. Sep. 29;—Am. 1941, p. 140, Act 112, Imd. Eff. May 21;—Am. 1943, p. 51, Act 51, Imd. Eff. Mar. 30;—CL 1948, 28.426;—Am. 1949, p. 117, Act 115, Eff. Sep. 23;—Am. 1959, p. 52, Act 50, Eff. Mar. 19, 1960;—Am. 1964, p. 286, Act 216, Eff. Aug. 28.

28.426a Parties controlling money or valuables; concealed weapons license; authority to make, sell and use gas weapons.

Sec. 6-a. Said concealed weapons licensing board may issue licenses to any bank, trust company, armored car company, railway company, express company, or other company, institution, copartnership or individual having in its, their, or his possession large sums of money or other valuables, authorizing such licensee to equip the premises or vehicles under its, their or his control with gas ejecting devices to be used solely for the purpose of protecting such premises or vehicles and the persons or property therein from criminal assaults. The commissioner of the department of public safety shall prescribe rules and regulations which shall govern the issuing of such licenses and the making of application therefor. Said concealed weapons licensing board may in its discretion also issue licenses to any company, copartnership or individual under such limitations and in accordance with such rules and regulations as the commissioner of the department of public safety shall prescribe, authorizing such corporation, copartnership or individual to manufacture or sell or both, any such gas ejecting or emitting weapons, cartridge or device to any person authorized by law to possess the same.

HISTORY: Add. 1929, p. 529, Act 206, Imd. Eff. May 20;—CL 1929, 16755;—CL 1948, 28.426a.

28.427 Concealed weapons licenses; expiration.

Sec. 7. All licenses heretofore issued in this state permitting a person to carry a pistol concealed upon his person shall expire at midnight, December 31, 1927.

HISTORY: CL 1929, 16756;—CL 1948, 28.427.

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28.428 Revocation of licenses; grounds, hearing.

Sec. 8. The licensing board herein created by section 6 may revoke any license issued by it upon receiving a certificate of any magistrate showing that such licensee has been convicted of violating any of the provisions of this act, or has been convicted of a felony. Such license may also be revoked whenever in the judgment of said board the reason for granting such license shall have ceased to exist, or whenever said board shall for any reasonable cause determine said licensee to be an unfit person to carry a pistol concealed upon his person. No such license shall be revoked except upon written complaint and then only after a hearing by said board, of which at least 7 days' notice shall be given to the licensee either by personal service or by registered mail to his last known address. The clerk of said licensing board is hereby authorized to administer an oath to any person testifying before such board at any such hearing.

HISTORY: CL 1929, 16757;—CL 1948, 28.428.

28.429 Pistols; safety inspection required, certificate; exemptions.

Sec. 9. Any person within the state who owns or comes into possession of a pistol as defined in this act, shall, if he resides in an incorporated city or an incorporated village having an organized police department, present such weapon for safety inspection to the commissioner or chief of police of such city or village; if such person resides in a part of the county not included within the corporate limits of such city or village he shall present such pistol for safety inspection to the sheriff of such county. A certificate of inspection shall thereupon be issued in triplicate on a form provided by the commissioner of the Michigan state police, containing the name, age, address, description and signature of the person presenting such pistol for inspection, together with a full description thereof; the original of such certificate shall be delivered to the registrant; the duplicate thereof shall be mailed within 48 hours to the commissioner of the Michigan state police and filed and indexed by him and kept as a permanent official record, and the triplicate of such certificate shall be retained and filed in the office of said sheriff, or commissioner or chief of police. The provisions of this section shall not apply to wholesale or retail dealers in firearms or to collections of pistols kept solely for the purpose of display, as relics, curios or antiques, not made for modern ammunition or permanently deactivated, nor to weapons heretofore registered under the provisions of section 11 of Act No. 313 of the Public Acts of 1925.

HISTORY: CL 1929, 16758;—Am. 1931, p. 772, Act 333, Imd. Eff. Jun. 16;—CL 1948, 28.429;—Am. 1957, p. 317, Act 259, Eff. Sep. 27;—Am. 1964, p. 287, Act 216, Eff. Aug. 28.

Secs. 10-11.

HISTORY: CL 1929, 16759-16760;—Rep. 1931, p. 754, Act 328, Eff. Sep. 18.

These sections were penalty sections, now covered by Compilers' §§ 750.229 and 750.230.

28.432 Inapplicability of licensing and safety inspection section.

Sec. 12. Sections 2 and 9 do not apply to a duly authorized police or correctional agency of the United States or of the state or any subdivision thereof, nor to the army, air force, navy or marine corps of the United States, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard, armed forces reserves or other duly authorized military organizations, or to members of the above agencies or organizations for weapons used for the purposes of or incidental to such agencies or organizations, nor to a person holding a license to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by authorized agents of any person licensed to manufacture firearms.

HISTORY: CL 1929, 16761;—CL 1948, 28.432;—Am. 1964, p. 288, Act 216, Eff. Aug. 28.

28.432a Inapplicability of concealed weapons license section.

Sec. 12a. Section 6 does not apply to a peace officer of a duly authorized police agency of the United States or of the state or any subdivision thereof, who is regularly

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employed and paid by the United States or the state or such subdivision, nor to a person regularly employed by the state department of corrections and authorized in writing by the director of corrections to carry a weapon concealed while in the official performance of his duties or while going to or returning from such duties, nor to a member of the army, air force, navy or marine corps of the United States when carrying weapons in line of duty, nor to a member of the national guard, armed forces reserves or other duly authorized military organization when on duty or drill or in going to or returning from his place of assembly or practice by a direct route or otherwise, while carrying weapons used for purposes of such military organizations, nor to a person licensed to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by authorized agents of any person licensed to manufacture firearms, nor to a person while carrying a pistol unloaded in a wrapper or container in the trunk of his vehicle or while carrying a pistol unloaded and in a wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business, or in moving goods from 1 place of abode or business to another place of abode or business.

HISTORY: Add. 1964, p. 288, Act 216, Eff. Aug. 28.

28.433 Unlawful possession of weapon; complaint, search warrant, seizure.

Sec. 13. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this act is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this act.

HISTORY: CL 1929, 16762;—CL 1948, 28.433.

28.434 Unlawful possession; weapon forfeited to state.

Sec. 14. All pistols, weapons or devices carried or possessed contrary to this act are hereby declared forfeited to the state, and shall be turned over to the commissioner of the Michigan state police or his designated representative, for such disposition as said commissioner may prescribe.

HISTORY: CL 1929, 16763;—Am. 1943, p. 152, Act 113, Eff. July 30;—CL 1948, 28.434.

Secs. 15-16.

HISTORY: CL 1929, 16764-16765;—Rep. 1931, p. 754, Act 328, Eff. Sept. 18.

These sections were penalty sections, now covered by Compilers' § 750.225.

Sec. 17. (This was a repeal and saving clause section.)

HISTORY: CL 1929, 16766;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Act 274, 1911, CL 1915, 15236-15246; Act 313, 1925; Sec. 16, Ch. 162, R. S. 1846, CL 1915, 15641.

Sec. 18. (This was a severing clause section.)

HISTORY: CL 1929, 16767;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 227, 1947, p. 330; Eff. Oct. 11.

AN ACT to authorize the commissioner of the Michigan state police to acquire, improve, erect and maintain certain housing units; to authorize the borrowing of money and the execution of certain contracts; to provide for the appointment of a trustee under certain circumstances; and to provide for the disposition of revenue received from the renting of housing units.

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The People of the State of Michigan enact:

28.501 Housing units for state police; erection, acquisition or improvement; rental and lease, terms; management.

Sec. 1. The commissioner of the Michigan state police, with the approval of the state administrative board is authorized to acquire, improve or erect from time to time in the vicinity of any 1 or more of the several posts of the Michigan state police, housing units for the occupancy of families of married troopers and officers. The necessity of such acquisition, improvement or erection shall be determined by the state administrative board. Such housing units shall be rented to married troopers and officers on rental terms sufficient to meet the costs of maintenance and payment of principal and interest on obligations issued under the provisions of this act: Provided, That in case any such housing unit shall at any time not be required for state police purposes, the same may be leased for a period of not to exceed 3 months at any 1 time, with the approval of the state administrative board, to persons who are not troopers or officers in the Michigan state police. The commissioner of the Michigan state police shall exercise full control and complete management of such housing units, and is authorized to acquire the necessary lands therefor.

HISTORY: CL 1948, 28.501.

28.502 Housing units; authority of commissioner to incur obligations, acquire lands, and enter into land contracts.

Sec. 2. In carrying out the above power, the commissioner of the Michigan state police may borrow money, pledging the rents and income received from such housing units in excess of maintenance expenses, for the discharge of loans so executed: Provided, That any obligations issued under the provisions of this act shall contain such provisions of section 3 of this act printed on the face thereof as shall be applicable thereto in substantially the form therein set forth.

In carrying out the above power, the commissioner of the Michigan state police, with the approval of the state administrative board, is further authorized to acquire lands for any of such housing units or to finance any of such housing units through the medium of a land contract or land contracts.

HISTORY: CL 1948, 28.502.

28.503 Housing units; non-liability of state; payment of obligations.

Sec. 3. No obligations hereunder shall ever be or become a charge against the state of Michigan, nor shall the same become a lien on or secured by any property, real, personal or mixed, of the state or the Michigan state police, other than the land and housing unit covered by any such loan, but all such obligations, including principal and interest, shall be payable from the net rents and income obtained from the renting of said housing units, and gifts and bequests made to the Michigan state police for the express purpose of financing, partially or completely, the acquisition, improvement or construction of said housing units, or for retiring outstanding indebtedness as herein created.

HISTORY: CL 1948, 28.503.

28.504 Housing units; title of real estate; payment of taxes and special assessments.

Sec. 4. The title of all real estate and improvements acquired and erected under the provisions of this act shall be taken and held in the name of the people of the state of Michigan for the benefit of the Michigan state police: Provided, That said real estate

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shall be subject to all real estate taxes, including special assessments, and the same shall be paid from the Michigan state police housing fund in the manner provided for in section 5.

HISTORY: CL 1948, 28.504.

28.505 State police housing fund; creation, disbursements.

Sec. 5. There is hereby created in the state treasury a special fund to be known as the Michigan state police housing fund, into which shall be paid and credited all moneys received from obligations issued under the provisions of this act, all rents and income derived from housing units and gifts and bequests, to be disbursed on vouchers signed by the commissioner of the Michigan state police on warrants drawn on the state treasurer by the auditor general on said Michigan state police housing fund, for the purpose of acquisition of necessary lands, defraying acquisition, improvement, construction and maintenance costs, and the payment of principal and interest on obligations issued under the provisions of this act.

HISTORY: CL 1948, 28.505.

28.506 Housing units; failure to pay obligations; appointment of trustee to administer rents and income.

Sec. 6. Upon default in the payment of any obligation incurred hereunder and on application signed by the holders of 60 per cent or more in amount of the outstanding obligations incurred in connection with any housing unit, the circuit court having jurisdiction may appoint a trustee to take charge of and administer the rents and income received from the housing unit.

HISTORY: CL 1948, 28.506.

Act 203, 1965, p. 361; Eff. Jan. 1, 1966.

AN ACT to provide for the creation of a law enforcement officers' training council; to provide for additional costs in criminal cases and the establishment of the law enforcement officers' training fund and allocations therefrom to local agencies of government participating in a police training program.

The People of the State of Michigan enact:

28.601 Law enforcement officers' training council act of 1965; short title.

Sec. 1. This act shall be known and may be cited as the "Michigan law enforcement officers training council act of 1965".

HISTORY: New 1965, p. 361, Act 203, Eff. Jan. 1, 1966.

CITED IN OTHER SECTIONS: Sections 28.601 to 28.616 are cited in § 16.257.

28.602 Law enforcement officers training; definitions.

Sec. 2. As used in this act:

(a) "Council" means the law enforcement council.

(b) "Executive secretary" means the executive secretary of the council.

(c) "Police officer" or "law enforcement officer" means a member of a police force or other organization of a city, county, township, village or of the state, regularly employed as such and who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state, but shall not include any person serving as such solely by virtue of his occupying any other office or position.

HISTORY: New 1965, p. 361, Act 203, Eff. Jan. 1, 1966;—Am. 1968, p. 319, Act 220, Imd. Eff. Jun. 24;—Am. 1970, p. 549, Act 187, Imd. Eff. Jan. 1, 1971.

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28.603 Law enforcement council; creation, membership.

Sec. 3. There is created the law enforcement council to carry out the intent of this act and to consist of 11 members selected as follows:

(a) The attorney general, or his designated representative.

(b) The commissioner of state police, or his designated representative.

(c) Three members appointed to the council by the governor from a list of 6 active members submitted by the Michigan association of chiefs of police.

(d) Three members appointed to the council by the governor from a list of 6 active law enforcement officials submitted by the Michigan sheriffs association.

(e) One member appointed to the council by the governor from a list of 3 names submitted by the fraternal order of the police.

(f) One member appointed to the council by the governor from a list of 3 names submitted by the metropolitan club.

(g) One member appointed to the council by the governor from a list of 3 names submitted by the Detroit police officers associations.

(h) All appointments made by the governor shall be subject to the advice and consent of the senate.

HISTORY: New 1965, p. 362, Act 203, Eff. Jan. 1, 1966.

28.604 Law enforcement council; terms, vacancies, reappointment.

Sec. 4. All members of the council shall hold office for a term of 3 years, except that of the members first appointed from nominees submitted by the Michigan association of chiefs of police and the nominees submitted by the Michigan sheriffs association—1 shall be appointed for 3 years, 1 for 2 years, and 1 for 1 year. A vacancy caused by expiration of a term or termination of his official position in law enforcement shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member who he is to succeed in the same manner as the original appointment. Any member may be reappointed for additional terms.

HISTORY: New 1965, p. 362, Act 203, Eff. Jan. 1, 1966.

28.605 Law enforcement council; officers, terms; limitations of power; nonforfeiture of employment.

Sec. 5. The council shall designate from among its members a chairman and a vice chairman who shall serve for 1-year terms and who may be re-elected. Membership on the council shall not constitute holding a public office, and members of the council shall not be required to take and file oaths of office before serving on the council. The council shall not have the right to exercise any portion of the sovereign power of the state. No member of the council shall be disqualified from holding any public office or employment by reason of his appointment or membership on the council, nor shall he forfeit any such office or employment, by reason of his appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

HISTORY: New 1965, p. 362, Act 203, Eff. Jan. 1, 1966.

28.606 Law enforcement council; meetings, regular and special; procedures.

Sec. 6. The council shall meet at least 4 times in each year at Lansing and shall hold special meetings when called by the chairman or, in the absence of the chairman, by the vice chairman or when called by the chairman upon the written request of 5 members of the council. The council shall establish its own procedures and requirements with respect to quorum, place and conduct of its meeting and other matters.

HISTORY: New 1965, p. 362, Act 203, Eff. Jan. 1, 1966.

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28.607 Law enforcement council; annual report to governor.

Sec. 7. The council shall make an annual report to the governor which will include pertinent data regarding the standards established and the degree of participation of municipalities in the training programs.

HISTORY: New 1965, p. 363, Act 203, Eff. Jan. 1, 1966.

28.608 Council members; compensation, expenses.

Sec. 8. The members of the council shall serve without compensation but shall be entitled to their actual expenses in attending meetings and in the performance of their duties hereunder.

HISTORY: New 1965, p. 363, Act 203, Eff. Jan. 1, 1966.

28.609 Minimum employment standards; contents; compliance.

Sec. 9. (1) The council shall prepare and publish minimum employment standards with due consideration to varying factors and special requirements of local police agencies relative to:

(a) Minimum standards of physical, educational, mental and moral fitness which shall govern the recruitment, selection and appointment of police officers.

(b) The approval of police training schools administered by a city, county, township, village or corporation.

(c) Minimum courses of study, attendance requirements of at least 240 instructional hours, equipment and facilities required at approved city, county, township, village or corporation police training schools.

(d) Minimum qualifications for instructors at approved police training schools.

(e) Minimum basic training requirements which regularly employed police officers excluding sheriffs shall complete before being eligible for employment.

(f) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements for such categories or classifications.

(g) The establishment of subordinate regional training centers in strategic geographic locations in order to serve the greatest number of police agencies that are unable to support their own training programs.

(h) Acceptance of police training and experience in countries other than the United States in fulfillment in whole or in part of the minimum employment standards prepared and published by the commission.

(2) Notwithstanding any other provision of this, or any statute, a regularly employed person employed on or after January 1, 1971, as a member of a police force having 3 or more full-time officers shall not be empowered to exercise all the authority of a peace officer in this state, nor employed in a position which is granted the authority of a peace officer by statute, unless the person has complied with the minimum employment standards prepared and published by the council pursuant to this section. Law enforcement officers employed on or before January 1, 1971, may continue their employment and participate in training programs on a voluntary or assigned basis but failure to meet standards shall not be grounds for dismissal of or termination of employment.

HISTORY: New 1965, p. 363, Act 203, Eff. Jan. 1, 1966;—Am. 1970, p. 550, Act 187, Imd. Eff. Jan. 1, 1971.

28.610 Agreements of council with other agencies, colleges and universities.

Sec. 10. The council may enter into agreements with other agencies, colleges and universities to carry out the intent of this act.

HISTORY: New 1965, p. 363, Act 203, Eff. Jan. 1, 1966.

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28.611 Law enforcement training council; duties.

Sec. 11. The council may:

(a) Visit and inspect any police training school, or examine the curriculum or training procedures, for which application for approval has been made.

(b) Issue certificates to police training schools qualifying under the regulations of the council.

(c) Authorize the issuance of certificates of graduation or diplomas by approved police training schools to police officers who have satisfactorily completed minimum courses of study.

(d) Cooperate with state, federal and local police agencies in establishing and conducting local or area schools, or regional training centers for instruction and training of police officers of this state, its cities, counties, townships and villages.

(e) Make recommendations to the legislature on matters pertaining to qualification and training of police officers.

HISTORY: New 1965, p. 363, Act 203, Eff. Jan. 1, 1966.

28.612 Executive secretary; appointment, term, duties, compensation.

Sec. 12. There shall be an executive secretary of the council who shall be appointed by the council, and who shall hold office during the pleasure of the council. He shall perform such functions and duties as may be assigned to him by the council. He shall receive compensation and reimbursement for expenses within the amounts available therefor by appropriation.

HISTORY: New 1965, p. 364, Act 203, Eff. Jan. 1, 1966.

28.613 Law enforcement officers training fund; creation, assessments, collection.

Sec. 13. (1) There is hereby created in the state treasury a law enforcement officers training fund, from which, the legislature shall appropriate such sums as are deemed necessary for the purposes of this act.

(2) On and after the effective date of this act, there shall be levied an assessment as additional cost in an amount equal to 10% of every fine, penalty and forfeiture imposed and collected by the courts for criminal offenses, other than a fine, penalty or forfeiture for a violation of the Michigan vehicle code or any local ordinance relating to stopping, parking or operation of a vehicle, and other than for a violation of the conservation laws. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(3) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasurer, who shall transmit it to the state treasurer to be deposited in the law enforcement officers training fund. The transmission to the state treasurer shall be in the same manner as fines collected for the state by the county.

HISTORY: New 1965, p. 364, Act 203, Eff. Jan. 1, 1966.

28.614 Training fund; payment of appropriation, reimbursements for local units, allocations.

Sec. 14. The amounts annually appropriated by the legislature shall be paid by the state treasurer in accordance with the accounting laws of the state upon certification of the executive secretary of the council for the purpose of reimbursing the city, county, township or village in an amount not to exceed 1/2 of the salary paid to each police officer meeting the recruitment standards and participating in training meeting the standards prescribed pursuant to this act during the period covered by the allocation, plus 1/2 of the necessary living expenses incurred by such officer which are necessitated by training requiring that he be away from his residence overnight. If the

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moneys in the law enforcement officers training fund to be appropriated by the legislature for such salary and expense reimbursement are insufficient to allocate such amount to each participating city, county, township or village, the amount allocated to each shall be reduced proportionately. In no event shall any allocation be made to any city, county, township or village which has not, throughout the period covered by the allocation, adhered to the standards established by the council as applicable to personnel recruited or trained by such city, county, township or village during such period.

HISTORY: New 1965, p. 364, Act 203, Eff. Jan. 1, 1966.

28.615 Aid to local governments; application.

Sec. 15. Any city, county, township or village which desires to receive aid pursuant to this act shall make application to the council for such aid. The application must be accompanied by a certified copy of an ordinance or resolution adopted by its governing body providing that while receiving any aid pursuant to this act, the city, county, township or village will adhere to the standards established by the council. The application shall contain such information as the council may request.

HISTORY: New 1965, p. 364, Act 203, Eff. Jan. 1, 1966.

28.616 Effective date.

Sec. 16. This act shall take effect on January 1, 1966.

HISTORY: New 1965, p. 364, Act 203, Eff. Jan. 1, 1966.

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CHAPTER 29. FIRE PREVENTION

FIRE PREVENTION ACT
Act 207 of 1941

29.1 Fire prevention act; definitions.
29.1a Fire prevention act; short title.
29.2 Administration of act by state police; authority of state police commissioner as to creation of division and appointments.
29.3 Repealed.
29.3a Fire safety rules and standards; adoption and promulgation by state police commissioner after notice and public hearing.
29.3b State fire safety board; members; term; quorum; meetings; compensation; records; office.
29.3c Fire safety rules; standards; hearings; modifications.
29.3d Moving picture theaters; rules, scope.
29.4 Local fire chief or township clerk; reports of fires to state police commissioner; fire insurance companies, duty to furnish information to commissioner.
29.5 Flammables and explosives; rules for manufacture, storage and disposition, adoption by commissioner.
29.5a Flammable liquids, compressed gases and corrosive liquids; rules and regulations governing transportation; hearing notice; tank vehicles, standards of safety, inspection, violations.
29.6 Investigation of fires; authority of commissioner and officers, access to premises.
29.7 Investigation of crimes related to fires; authority of commissioner to issue subpoenas; circuit court to enforce; fifth amendment may not be invoked.
29.7a Dangerous conditions involving flammables and explosives; restrictions, abatement.
29.8 Investigation of fire hazards; report of findings and recommendations to be filed with state police.
29.9 Abatement of fire hazard; determination and order of commissioner, notice to owner, time for compliance.
29.10 Order of commissioner; service, methods.
29.11 Order of commissioner; validity, compliance with procedural requirements.
29.12 Order of commissioner; presumption of validity and reasonableness; admissible as evidence.
29.13 Order of commissioner; enforcement by circuit court; hearing, modification of order, procedures.
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29.20 Public buildings; fire escapes, supervision by local officers.
29.21 Public buildings; aisles and exits, rules adopted and promulgated by commissioner.
29.21a Public buildings; fire extinguishers; materials, maximum toxicity.
29.21b Fire extinguishers; liquefied compressed gas, toxicity.
29.22 Violation of act; penalty.
29.23 Fire hazards declared public nuisance; abatement order, suit in chancery, injunction, jurisdiction.
29.24 Annual report of commissioner to governor; recommendations for legislation.
29.25 Repeal; saving clause.

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Act 202 of 1970

29.41 Explosives; short title.
29.42 Explosives act; definitions.
29.43 Disposition of explosives; permit required, exceptions.
29.44 Permit; application, contents, fee.
29.45 Permit; age of applicant, mental competence.
29.46 Permit; copies, disposition; duration.
29.47 Permit; refusal, grounds; notice.
29.48 Permit; refusal, application for review; hearing, order of determination; judicial review.
29.49 Permit; revocation, grounds; procedures.
29.50 Permanent permit; issuance.
29.51 Dealer; records, contents, disposition; duty as to permit.
29.52 Permit; nonassignability.
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29.55 Violation of act; penalty.

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29.71 Public buildings; safe means of egress required.
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29.74 Board of building inspectors; enumeration of powers and duties as to inspection, certification, records, review of action.
29.75 Use of uncertified building for assembly prohibited; penalty.
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29.77 Building inspectors; compensation.

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Act 257 of 1913

29.81 Moving picture machine; installation requirements, exceptions.
29.82 Moving picture theaters; operating booth, requirements.
29.83 Moving picture machines and equipment; construction, installation, use.

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29.85 Audience room; exits, aisles, doors.
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29.89 Audience room; clearance of aisles and rear spaces during performance.
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DRY CLEANING AND DYEING
Act 327 of 1947

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29.266 Class II installations; boilers and boiler rooms.
29.267 Class II installations; solvent storage tanks.
29.268 Class II installations; measures for safeguarding aboveground tanks or purifiers.
29.269 Class II installations; procedures for installation and operation of clarifiers; inspection.
29.270 Class II installations; apparatus requirements.
29.271 Class II installations; washing machines.
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29.274 Class II installations; extractors.
29.275 Class II installations; scouring or brushing tables or scrubbing tubs.
29.276 Class II installations; scouring or brushing operations.
29.277 Class II installations; location of scouring or brushing tables, scrubbing tubs.
29.278 Class II installations; scouring or brushing table requirements.
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29.280 Class II installations; instructing employees as to work hazards.
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29.298 Class III installations; washing machines.
29.299 Class III installations; filters and clarifiers.
29.300 Class III installations; extractors.
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29.303 Class III installations; piping and fittings, testing.
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29.305 Class III installations; scouring or brushing tables, scrubbing tubs.
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29.307 Class III installations; location of scouring or brushing table.
29.308 Class III installations; scouring or brushing table requirements.
29.309 Class III installations; flammable solvents for spotting.
29.310 Class III installations; instructing employees as to hazards of work.
29.311 Class III installations; searching for foreign materials.
29.312 Class III installations; draining solvent from clothing.
29.313 Class III installations; open floor drains.
29.314 Class III installations; flammable liquids for cleaning floors prohibited.
29.315 Class III installations; smoking prohibited, posting signs.
29.316 Class III installations; removal of lint and refuse from traps.

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29.321 Class IV installations; building as dwelling; exception.
29.322 Class IV installations; escape of vapors.
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29.327 Violations of act; penalties.
29.328 Enforcement of act.
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FIRE EXTINGUISHERS IN POLICE OR PEACE OFFICERS' VEHICLES

Act 211 of 1964

29.351 Police or peace officers' vehicles; fire extinguishers.

FIRE FIGHTERS' TRAINING COUNCIL ACT OF 1966

Act 291 of 1966

29.361 Short title; fire fighters' training council act of 1966.
29.362 Fire fighters' training council act; definitions.
29.363 Fire fighters' training council; creation; members, appointment, senate approval.
29.364 Training council; terms, vacancies, reappointment.
29.365 Training council; chairman, vice-chairman; membership not public office, effects.
29.366 Training council; meetings, quorum; procedures.
29.367 Training council; annual report to governor, contents.
29.368 Training council; members, compensation and expenses.
29.369 Training council; publication of advisory training standards.
29.370 Training council; cooperation with other agencies, colleges and universities.
29.371 Training council; powers and duties.
29.372 Training council; executive secretary, appointment, term, duties, compensation.
29.373 Fire fighters' training fund; appropriations, limitations.
29.374 Training costs of fire fighters; reimbursement to local units, limitations.
29.375 Application by local units for aid under act.
29.376 Training council; rules and regulations.
29.377 Effective date.

EXEMPTION OF FIREMEN FROM CARRYING PAPERS

Act 69 of 1968

29.391 Exemption of firemen from carrying certain papers.

Act 207, 1941, p. 307; Imd. Eff. Jun. 16.

AN ACT to provide for the prevention of fires and the protection of persons and property from exposure to the dangers of fire or explosion; to authorize the investigation of fires and the discovery of crime or other offenses in relation thereto; to require the razing, repair or alteration of buildings, and the clearing and improvement of premises which constitute a fire hazard or a menace to the peace, security or safety of persons or property; to control the use and occupancy of such buildings and premises; to provide for the regulation of the transportation of flammable liquids, compressed gases and corrosive liquids by tank vehicle; to prohibit the use of certain fire extinguishers and fire extinguishing agents; to provide for the administration of this act and prescribe procedure for the enforcement of its provisions; to fix penalties for violation of the provisions of this act; and to repeal certain acts and parts of acts. Am. 1952, p. 128, Act 113, Eff. Sep. 18;—Am. 1961, p. 111, Act 102, Eff. Sep. 8.

The People of the State of Michigan enact:

29.1 Fire prevention act; definitions.

Sec. 1. Definitions. For the purposes of this act, the following definitions shall be applied:

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(a) The term "commissioner" means the commissioner of the Michigan state police.

(b) The term "officer" means such officer of the department of the Michigan state police as the commissioner shall appoint or designate to execute the powers and perform the duties specified in this act.

(c) The word "building" means any structure, framework or housing, public or private, and includes tanks, receptacles and containers for the storage of commodities or other materials.

(d) The word "premises" means any lot or parcel of land, exclusive of buildings thereon, and includes parking lots, tourist camps, trailer camps, airports, stockyards, junkyards, wharves, piers, and other places or enclosures, however owned, used or occupied.

(e) The term "fire hazard" means any building, premises, place or thing which by reason of its nature, location, occupancy, condition or use may cause loss, damage or injury to persons or property by reason of fire, explosion, or action of the elements.

(f) The word "person" means any person, copartnership, corporation or voluntary association.

(g) The word "owner" shall be given its ordinary meaning and be held to include any trustee, a board of trustees of such property, or any person having a freehold interest in property, but a lessee or mortgagee of such property shall not be deemed an owner thereof.

(h) The singular of words or terms used includes the plural.

HISTORY: CL 1948, 29.1.

FORMER ACTS: Act 79, 1911, amended by Act 213, 1913; Act 178, 1915, being CL 1929, 603-620, amended by Act 151, 1939, Act 266, 1939.

CITED IN OTHER SECTIONS: Sections 29.1 to 29.25 are cited in § 388.853.

29.1a Fire prevention act; short title.

Sec. 1a. This act shall be known and may be cited as the "Fire prevention act".

HISTORY: Add. 1945, p. 83, Act 86, Imd. Eff. April 11;—CL 1948, 29.1a.

29.2 Administration of act by state police; authority of state police commissioner as to creation of division and appointments.

Sec. 2. Except as otherwise provided in this act the administration and enforcement of this act are vested in the Michigan state police. The commissioner may create and maintain such division of said department as he shall deem necessary or expedient, and organize or reorganize the same, including the appointment of division heads, assistants and employees with such titles, powers and duties related to the administration and enforcement of this act as he shall designate and prescribe.

HISTORY: CL 1948, 29.2;—Am. 1965, p. 353, Act 200, Imd. Eff. Jul. 16.

29.3 Repealed. 1965, p. 358, Act 200, Imd. Eff. Jul. 16.

Section authorized commissioner of state police to promulgate rules, and provided for judicial review.

29.3a Fire safety rules and standards; adoption and promulgation by state police commissioner after notice and public hearing.

Sec. 3a. The commissioner may formulate, adopt and promulgate rules in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, containing reasonable standards of safety, having uniform force and effect throughout this state for the storage, handling and use of inflammable liquids; for the storage, handling and use of liquefied petroleum gases; for the storage and transportation of explosives; and for safety to life in places of public assemblage. Such fire safety rules shall be adopted only after public hearing, notice of which shall be published or otherwise circulated by the commissioner to afford interested persons oppor-

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tunity to submit data or views orally or in writing. The rules authorized hereunder shall be in accordance with established practicable means for securing safety as evidenced by standards promulgated by nationally recognized authorities on the subject.

HISTORY: Add. 1965, p. 353, Act 200, Imd. Eff. Jul. 16;—Am. 1968, p. 571, Act 321, Imd. Eff. Jul. 3.

CITED IN OTHER SECTIONS: Sections 29.3a to 29.3c are cited in § 16.258.

29.3b State fire safety board; members; term; quorum; meetings; compensation; records; office.

Sec. 3b. (1) The state fire safety board, herein called the board, is created to consist of 10 members who are residents of this state, 3 of whom shall be representatives of municipal fire service; 1 a representative of hospital administration; 1 a professional engineer; 1 a registered architect; 1 a representative of the nursing home industry; 1 a school board member or a school administrator; 1 a representative of the building trades and 1 a representative of the motion picture theater industry. Board members shall be appointed by the governor with the advice and consent of the senate. The members shall have such qualifications as the governor may consider essential to enable them competently to pass upon matters pertaining to fire prevention and fire safety for all schools, institutional occupancies and theaters as specified in subsection (1) of section 3c.

(2) Of the members first appointed, 3 shall serve for a term of 1 year, 2 for 2 years, and 2 for 3 years. Thereafter, each appointment shall be for a term of 3 years. Continued absence of any member from regular or special meetings of the board renders him liable to immediate removal by the governor.

(3) Six members of the board constitute a quorum. Affirmative votes of at least 5 members shall be required to pass upon any question, action or business of the board.

(4) Annually the board shall elect a chairman from its membership, and shall hold at least 6 regular meetings a year. Special meetings may be called by the chairman, or upon written request of 5 board members. Meetings shall be held at a location designated by the chairman.

(5) The members of the board shall receive such per diem as the legislature shall prescribe, and shall be entitled to actual and necessary expenses incurred in the performance of their duty. The legislature shall appropriate sufficient money as may be necessary for the board to conduct its business and discharge its responsibilities.

(6) The board shall keep minutes of its proceedings, showing the vote of each member on every proposition or question, or indicating if any member is absent or fails to vote. Records of board action and business shall be made and maintained. All minutes and records shall be public records.

(7) Within the limitations of its appropriation the board may maintain an office, hire such employees, either full or part time as may be necessary, and purchase, rent or lease such equipment and supplies deemed essential to the proper discharge of its responsibilities.

HISTORY: Add. 1965, p. 354, Act 200, Imd. Eff. Jul. 16;—Am. 1968, p. 571, Act 321, Imd. Eff. Jul. 3;—Am. 1970, p. 591, Act 212, Imd. Eff. Sep. 29.

29.3c Fire safety rules; standards; hearings; modifications.

Sec. 3c. (1) The board shall make and adopt reasonable and standard rules pertaining to fire safety requirements for schools, including state supported colleges and universities, for institutional occupancies such as hospitals, nursing homes and homes for aged persons, mentally retarded care facilities, nurseries and juvenile detention facilities and for moving picture theaters not inconsistent with the provisions of this act. Rules that pertain to new school construction shall be set forth in the informative bulletin provided for in section 1 of Act No. 306 of the Public Acts of 1937, as amended, being section 388.851 of the Compiled Laws of 1948, and shall be consistent with rec-

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ognized good practice as evidenced by standards adopted by nationally recognized authorities in the field of fire protection. Rules that pertain to existing school buildings, institutional facilities and theaters as specified in this section shall be consistent with recognized good practice as evidenced by standards adopted by nationally recognized authorities in the field of fire protection and shall be promulgated in accordance with and subject to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

(2) The state fire marshal shall not be required to consider any other fire safety rules other than those provided for in this section insofar as his approval of school building plans, school buildings, theater building plans and theater buildings are concerned, or insofar as inspection of theater buildings or inspection and approval of institutional facilities specified in subsection (1) are concerned.

(3) The board shall act as a hearing body in accordance with the provisions of Act No. 306 of the Public Acts of 1969, to review and render decisions on any contested case, any fire safety rule pertaining to any school, institutional occupancy facility or theater specified in this section, or any ruling of the fire marshal in his interpretation or application of the rules. When properly appealed to and after a hearing, the board may vary the application of any school, institutional occupancy facility or theater, fire safety rule or may modify the ruling or interpretation of the state fire marshal when in its opinion the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of the rules or the public interest.

(4) A decision of the board to vary the application of any fire safety rule, or to modify or change a ruling of the state fire marshal, shall specify in what manner the variation, modification or change is made, the conditions upon which it is made, and the reasons therefor.

HISTORY: Add. 1965, p. 354, Act 200, Imd. Eff. Jul. 16;—Am. 1968, p. 571, Act 321, Imd. Eff. Jul. 3;—Am. 1970, p. 592, Act 212, Imd. Eff. Sep. 29.

29.3d Moving picture theaters; rules, scope.

Sec. 3d. Rules promulgated by the board with respect to moving picture theaters shall be limited in scope to those subject matters set forth in Act No. 257 of the Public Acts of 1913, as amended, being sections 29.81 to 29.101 of the Compiled Laws of 1948, wherein specific reference is made to the power of the state fire safety board to promulgate rules pursuant to the provisions of this act.

HISTORY: Add. 1970, p. 593, Act 212, Imd. Eff. Sep. 29.

29.4 Local fire chief or township clerk; reports of fires to state police commissioner; fire insurance companies, duty to furnish information to commissioner.

Sec. 4. It shall be the duty of the chief of every organized fire department, the clerk of every village or township not having an organized fire department, and the managing head of every organized fire district in this state, immediately after the occurrence of fire within his jurisdiction resulting in loss of life or property, to make and file with the commissioner a full report of such fire, and also on or before the first day of February of each year to make and file with the commissioner a detailed report of all fires occurring within his jurisdiction during the preceding calendar year containing such statistical information as the commissioner may require. Such reports shall be made on and according to forms supplied by the commissioner.

Every fire insurance company authorized to do business in this state shall on request therefor promptly furnish to the commissioner such information as shall be in its possession concerning any fire occurring in this state. Such report shall be in addition to and not in lieu of any other report or reports required by law to be made by such company to other state agencies: Provided, That such insurance company report may be

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made through the national board of fire underwriters under such terms and conditions as the commissioner may prescribe.

HISTORY: CL 1948, 29.4.

29.5 Flammables and explosives; rules for manufacture, storage and disposition, adoption by commissioner.

Sec. 5. All inflammable or explosive liquids, fluids, compounds, materials or other substances, including alcohol, gunpowder, dynamite, crude petroleum or any of its products, fuel oils, pyroxylin, and combustible finishes, and other commodities of a like nature or quality shall be manufactured, kept or stored, sold, transported or otherwise handled or disposed of in such a manner and by such method as not to constitute a fire hazard within the meaning of this act or a menace to the public peace, health or safety, or so as to endanger or cause loss, injury or damage to persons or property. The commissioner may adopt and promulgate in the manner prescribed in section 3a of this act reasonable rules for carrying out the intent and purpose of this section.

HISTORY: CL 1948, 29.5;—Am. 1968, p. 572, Act 321, Imd. Eff. Jul. 3.

29.5a Flammable liquids, compressed gases and corrosive liquids; rules and regulations governing transportation; hearing notice; tank vehicles, standards of safety, inspection, violations.

Sec. 5a. (1) The commissioner is empowered to formulate, adopt and promulgate rules and regulations containing reasonable standards of safety, having uniform force and effect throughout this state for the transportation of flammable liquids, compressed gases and corrosive liquids by tank vehicle upon the public highways, including standards covering safety and the safe operation thereof. Of the aforesaid standards, those applicable to flammable liquids, those applicable to compressed gases, and those applicable to corrosive liquids, shall each be separately formulated and distinguished. The commissioner shall and local authorities may, except as otherwise provided herein, enforce such rules and regulations.

(2) No rule or regulation shall be adopted under the provisions of this section or made effective until after a public hearing thereon, of which at least 20 days written notice shall have been given by registered mail to each motor carrier, producer, refiner, distributor or other person who or which shall have registered his or its name and mailing address with the commissioner as a party interested in such proceedings, and at which any such interested party may appear and present testimony. Every such notice shall contain a copy of each rule and regulation proposed for adoption pursuant to such hearing.

(3) Standards of safety incorporated in any rule or regulation adopted pursuant to this section shall be consistent with recognized good practice for tank vehicle transportation of each of the aforementioned products as evidenced by standards therefor promulgated by nationally recognized authorities on the subject, except that suitable and reasonable exceptions may be provided under which the continued operation of tank vehicles in service prior to the adoption of the rules and regulations authorized by this section may be permitted.

(4) The commissioner or any of his officers, the chief of any organized fire or police department, regular or voluntary, or any fireman or policeman in uniform, acting under the orders and directions of the local fire or police chief, may inspect any such tank vehicle at any reasonable time and place for compliance with the applicable standards promulgated as herein provided. If any tank vehicle is found upon such inspection to be in violation of said rules and regulations with respect to safe equipment, such inspecting officer shall attach to such vehicle a notice identifying such vehicle and stating that it is condemned against further use in the transportation of flammable liquids, compressed gases or corrosive liquids, and listing the violations found. If such

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vehicle is enroute to a destination or destinations where its load is to be delivered, the officer shall then, except as otherwise provided herein, allow such vehicle to proceed to make such deliveries after which such vehicle shall be returned to its base or customary place of maintenance and repair or taken to a suitable place for repair. If any such tank vehicle while enroute to a delivery destination is found upon inspection to be in such condition that further operation under normal road and traffic conditions is likely to result in spillage of any flammable or corrosive cargo the inspecting officer shall cause such vehicle to be impounded at a suitable place where its cargo can be unloaded with reasonable safety and until such unloading is accomplished and arrangements are made to return such vehicle with reasonable safety to its base or customary place of maintenance and repair, or to move the same to a suitable place of repair. If the braking, lighting, steering, coupling, sounding or other devices on any tank vehicle are found upon inspection to be in such condition that such vehicle cannot be operated by a prudent operator without undue risk of accident, then the inspecting officer shall cause such vehicle to be impounded at a suitable place until the necessary repairs are made.

(5) Except as and to the extent otherwise provided for herein, a tank vehicle condemned pursuant to this act shall not again be used in transporting any cargo of a flammable or corrosive nature until released as hereinafter provided for. Upon being returned to its base or customary place of maintenance and repair or to a suitable place of repair such condemned tank vehicle may upon order of the commissioner be there impounded until the conditions on account of which condemnation was issued have been corrected; or the commissioner may in his discretion authorize the temporary release of such condemned tank vehicle for such reasonable time as may be needed to procure parts or appurtenances necessary for correction of the conditions on account of which condemnation was issued. Upon correction of such conditions, an officer authorized to enforce the provisions of this act shall be notified and shall reinspect such vehicle and release such vehicle if upon such reinspection it is found to be in compliance in all respects with the provisions of this act and of the applicable regulations adopted pursuant thereto and if all reasonable impounding expenses (if any) have been paid by the owner of such vehicle. It shall be the duty of each officer acting pursuant to the provisions of this act to notify the commissioner of the Michigan state police under regulations prescribed by the commissioner, the circumstances and conditions of every such violation, condemnation, impounding and release.

HISTORY: Add. 1952, p. 128, Act 113, Eff. Sep. 18;—Am. 1965, p. 355, Act 200, Imd. Eff. Jul. 16.

29.6 Investigation of fires; authority of commissioner and officers, access to premises.

Sec. 6. The commissioner or any officer is authorized to investigate and inquire into the cause or origin of any fire occurring in this state resulting in loss of life or damage to property, and for such purpose may enter, without restraint or liability for trespass, any building or premises and inspect the same and the contents and occupancies thereof.

HISTORY: CL 1948, 29.6.

29.7 Investigation of crimes related to fires; authority of commissioner to issue subpoenas; circuit court to enforce; fifth amendment may not be invoked.

Sec. 7. Whenever in the opinion of the commissioner there is reason to believe that a crime or other offense has been committed in connection with any fire, the commissioner may conduct an inquiry with relation thereto, either in person or by some officer appointed therefor. The inquiry shall be held at such time and place as the com-

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missioner, or said officer, shall determine and the same may be continued from time to time and to such place or places as he shall direct.

The commissioner or said officer shall have the power to issue subpoenas to compel the attendance of witnesses to testify at such inquiry and for the production of books, records, papers, documents and other writings or things deemed material to the inquiry, to administer oaths or affirmations to witnesses, and to cause such testimony to be taken stenographically and transcribed and preserved. Wilful false swearing by any such witness shall be deemed perjury and be punished as such.

In case of disobedience of a subpoena, the commissioner or said officer may invoke the aid of any circuit court of the state of Michigan in requiring the attendance and testimony of witnesses and the production of books, records, papers and documents. And any of the circuit courts of the state within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said commissioner or officer and to produce books, records, documents and papers if so ordered and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

No person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation, or upon any hearing, when ordered to do so by the commissioner or said officer, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty; but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the commissioner or said officer: Provided, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: CL 1948, 29.7.

29.7a Dangerous conditions involving flammables and explosives; restrictions, abatement.

Sec. 7a. Whenever in the opinion of the commissioner, any of his officers, the commanding officer of the fire department of any city, village or township, or any fireman in uniform acting under the orders and direction of the commanding officer any dangerous condition involving explosives or flammable vapors exists, the commissioner, any of his officers, the commanding officer of the fire department of any city, village or township, or any fireman in uniform acting under the orders and direction of the commanding officer upon finding an emergency condition dangerous to persons or property, shall have power to take all necessary steps and prescribe all necessary restrictions and requirements to protect persons and property until the dangerous condition is abated.

The commissioner, any of his officers, the commanding officer of the fire department of any city, village or township, or any fireman in uniform acting under the orders and directions of the commanding officer, responding to a fire or emergency call, who, upon arriving at the scene of such fire or emergency, finds a condition dangerous to persons or property, shall have the power to take all necessary steps and requirements to protect persons and property until the dangerous condition is abated.

The commissioner, any of his officers, the commanding officer of the fire department of any city, village or township, or any fireman in uniform acting under the orders and direction of the commanding officer shall have power to investigate causes and effects related to dangerous conditions involving explosive or flammable vapors.

HISTORY: Add. 1952, p. 30, Act 26, Eff. Sep. 18;—Am. 1965, p. 356, Act 200, Imd. Eff. Jul. 16;—Am. 1968, p. 572, Act 321, Imd. Eff. Jul. 3.

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29.8 Investigation of fire hazards; report of findings and recommendations to be filed with state police.

Sec. 8. The commissioner or any of his officers, the chief of any organized fire department, regular or voluntary, or any fireman in uniform acting under the orders and directions of the local fire chief, the clerk of any village or township not having an organized fire department, and the managing head of any organized fire district in this state, upon complaint of any person having an interest in any building or premises or property adjacent thereto, or at his own instance without such complaint and without restraint or liability for trespass, may at any hour that shall be reasonable under the circumstances involved, enter into and upon any building or premises within their several jurisdictions for the purpose of inspection and examination thereof, together with their occupancies and contents, for the discovery of the existence of a fire hazard as defined in this act. Whenever any of such officers shall find any building or premises, either public or private, which for want of repairs, lack of or insufficient fire escapes, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, defective electrical wiring or electrical equipment, defective chimneys, defective gas connections, defective heating apparatus, accumulation of rubbish, waste materials or inflammable substances or decorations, or from any other condition, or for any other reason whatsoever, may cause an otherwise preventable fire or explosion or endanger other property or premises or be dangerous to the public peace, security or safety, he may reduce to writing his findings on such inspection and examination and file the same with the state police, with a report stating the ownership, location and description of such building or buildings or premises so inspected, and with such other data and information as the commissioner shall prescribe in such cases, together with his recommendations relative to the abatement of such fire hazard.

HISTORY: CL 1948, 29.8;—Am. 1965, p. 356, Act 200, Imd. Eff. Jul. 16.

29.9 Abatement of fire hazard; determination and order of commissioner, notice to owner, time for compliance.

Sec. 9. Upon the filing of the findings and report provided in the next preceding section hereof, the commissioner may make a determination therefrom or from any additional report or investigation he deems necessary, whether, and to what extent such building or buildings should be repaired or whether the same should be razed and completely removed and whether the use or occupancy of said building, or buildings, should be changed or terminated, and in the case of premises other than buildings as defined in this act, to what extent, if any, the same should be cleared or improved or the hazardous condition remedied, or such other or further determination as in the opinion of the commissioner should be made to effectively protect the peace, security and safety of persons and property. Following such determination of the commissioner, he may make and execute an order directed to the owner or owners of the building or premises, based upon the determination so made, and cause the same to be served upon said owner or owners and such other parties as he may deem to be interested in the subject matter of said order. If such order requires a building to be repaired, the owner shall be given not less than 10 days from and after the date of service of the order to signify in writing his intention to comply therewith. If such order requires the building to be torn down or removed, the owner of such building shall be given not less than 30 days from and after the service of said order to comply therewith. Failure on the part of any owner so served with an order to repair to signify his

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intention within the time limited herein shall be deemed a refusal to obey such order. In case the owner of the building or premises is unknown, service may be had as provided in subdivision (c) of section 10.

HISTORY: CL 1948, 29.9;—Am. 1965, p. 357, Act 200, Imd. Eff. Jul. 16.

29.10 Order of commissioner; service, methods.

Sec. 10. Service of the order of the commissioner provided for in section 9 of this act, or of any other order made by the commissioner pursuant to or under the provisions of this act, may be made in the following manner:

(a) By personally delivering a copy of said order to the person or persons to whom it is directed anywhere within the state of Michigan.

(b) By delivering a copy of the order by registered mail, addressed to the last known post office address of the addressee, and deliverable to the addressee only, with return receipt demanded, which service by registered mail shall be deemed personal and not substituted service.

(c) If any person to whom said order is directed cannot be found or has no known post office address or is not a resident of the state of Michigan, then service of such order may be made by publication in a newspaper published or circulating in the county in which the property or premises described in the order are situated, once in each week for 3 successive weeks, the last publication to be made at least 10 days prior to the date of performance specified in the order.

HISTORY: CL 1948, 29.10.

29.11 Order of commissioner; validity, compliance with procedural requirements.

Sec. 11. A substantial compliance with the requirements of sections 8 and 9 of this act shall be sufficient to give full force and effect to any order of the commissioner and such order shall not be declared invalid, inoperative or void for any omission or for any reason not affecting the merit and substance of the subject matter of said order.

HISTORY: CL 1948, 29.11.

29.12 Order of commissioner; presumption of validity and reasonableness; admissible as evidence.

Sec. 12. Every order issued by the commissioner under the provisions of section 9 of this act shall be presumed to be valid and reasonable and shall be prima facie evidence of the truth of the matters and things therein set forth.

HISTORY: CL 1948, 29.12.

29.13 Order of commissioner; enforcement by circuit court; hearing, modification of order, procedures.

Sec. 13. If at the expiration of the time specified in an order to repair a building, the owner has failed to signify in writing his intention to make such repairs, or if at expiration of the time prescribed in an order to raze or remove a building, or to clear and improve premises, the owner has failed to comply therewith, the commissioner may, in the name of his office, file in the circuit court of the county in which such building or premises are situated a petition signed and verified by him, setting forth the facts relating to the making and service of such order, and praying for the issuance of an order to show cause under the rules and practices of the court. Upon the filing of such petition, and the presentation thereof to the court either in chambers or otherwise, the court shall forthwith issue an order requiring the defendant or defendants named in such petition to show cause at a time specified therein why the order of the commissioner should not be complied with. Service of such order shall be made in such manner and within such time as the court shall, in each instance, direct. Upon the return day fixed in such order the cause shall stand to be heard upon the petition and the re-

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turn of the respondent, without further pleadings, and proofs taken in open court as in chancery causes, and the court shall make such determination thereof as he shall deem just and proper. He may modify or change the order of the commissioner according to the facts and circumstances as shown by the proofs, or he may affirm the order and direct compliance therewith upon such terms and conditions as he may impose. If a respondent named in the order to show cause shall fail to appear or make return, such failure shall be taken as an admission of the facts alleged in the petition, and the court may take such proofs as he shall deem required and make determination of the cause as herein provided. The court may, in his discretion, retain jurisdiction of the cause during such time as he shall determine to secure specific performance of the order or direction of the court in the premises. No injunction shall issue to stay any of the proceedings in the cause.

HISTORY: CL 1948, 29.13.

29.14 Lis pendens; notice to be filed by commissioner following order.

Sec. 14. The commissioner may, upon the issuance of the order provided for in section 9 of this act, make and file for record in the office of the register of deeds of the county in which the land, building or premises described in the order are situated a notice of pendency of proceedings under said order, which filing shall be constructive notice to any and all subsequent grantees, mortgagees, tenants or other occupants of such lands of the pendency of abatement proceedings as well as of any court proceedings which shall later be instituted thereon as provided in this act, and such order and court proceedings shall not be in any manner affected by any subsequent transfer of ownership, possession or encumbrance of such lands, buildings or premises.

HISTORY: CL 1948, 29.14.

29.15 Lienholder; party to proceedings involving property.

Sec. 15. Any mortgagee of record shall be, and any other lien holder, person in possession, other than the owner, and all other persons interested in the lands or premises described in the aforesaid petition, may be brought in as a party defendant to said cause by the service on such lien holder or other person at least 10 days before the return day of such order, or in such other manner as the court may direct, of a copy of said order to show cause. It shall not be necessary to serve upon such lien holder or other person the order of the commissioner described in section 9 of this act.

HISTORY: CL 1948, 29.15.

29.16 Court order; noncompliance, contempt; execution by commissioner; expense; salvage.

Sec. 16. The refusal or failure of a defendant to comply with the terms of any order or direction of the court in the premises, within the time limited therefor, shall be deemed contempt of court for which such respondent may be cited to appear and answer in the same manner as in other cases of contempt of court: Provided, That upon such refusal or failure the court may order the commissioner or his officer or officers to execute such order and directions and abate such fire hazard and for the purpose of executing the same, to enter upon the premises and employ, or contract for, such labor, tools, implements or other assistance as shall be necessary for the performance of the work. The amount of the cost and expense of executing said order shall be a lien upon said lands and premises enforcible and collectible in the same manner as provided by law in the case of mechanics' liens.

Any salvage of materials made in the abatement of such fire hazard may be used by

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the commissioner for defraying the cost and expense of executing the said order or directions of the court to the extent thereof and the discharge of said lien. Any surplus over and above such cost and expense shall belong to the owner of the premises.

HISTORY: CL 1948, 29.16.

29.17 Acquisition of title by state not to exempt property from act.

Sec. 17. In case the title to any lands upon which a building constituting a fire hazard is situated should become vested in the state or any political subdivision of this state, or any department, board or other agency thereof, either before or after the issuance of the order described in section 9 hereof, such building or fire hazard shall be subject in all cases to the provisions of this act.

HISTORY: CL 1948, 29.17.

29.18 Service of order or process by state police officer; return.

Sec. 18. Any officer of the department of the Michigan state police may serve any order or process of court issued under the authority of this act, and such officer may make return of service under his certificate in the same manner as is provided by law for return of service of process by the sheriff of a county.

HISTORY: CL 1948, 29.18.

29.19 Schools; fire drills, exits, installation of protective equipment.

Sec. 19. The superintendent, principal and teacher in all grades of public and private school, and the owner, or owner's representative, of school dormitories shall have a fire drill each month and keep all doors and exits unlocked during school hours, and when the school is open to the public, and it shall be the duty of each teacher to comply with these requirements and to keep a record of such drills. A minimum of 10 drills is required for each school year. However, if weather conditions will not permit fire drills to be held at least once a month, then at least 6 fire drills shall be held in the fall of each year and 4 fire drills shall be held during the remaining part of the school year: Provided, That the commissioner or any officer serving under him, the chief of the fire department or any fireman in uniform acting under orders and directions of the fire chief, shall have the right to cause fire drills to be held in school houses, school dormitories and such other public buildings as the commissioner shall deem advisable. The commissioner may order the installation of such other protective apparatus or equipment as shall conform to recognized and approved modern practices.

HISTORY: CL 1948, 29.19;—Am. 1965, p. 357, Act 200, Imd. Eff. Jul. 16.

29.20 Public buildings; fire escapes, supervision by local officers.

Sec. 20. All buildings in this state used for public purposes of 2 or more stories in height, including all school buildings, theaters, auditoriums, lodge rooms, halls or other places in which persons are allowed to congregate shall be equipped with suitable and adequate fire escapes or other proper means of egress as specified in the rules and regulations adopted by the commissioner, or the state fire safety board, which fire escapes and other means of egress shall be constructed under the supervision, direction and approval of the commissioner or any officer or local fire chief.

HISTORY: CL 1948, 29.20;—Am. 1965, p. 357, Act 200, Imd. Eff. Jul. 16.

29.21 Public buildings; aisles and exits, rules adopted and promulgated by commissioner.

Sec. 21. The commissioner is empowered to adopt and promulgate in the manner provided in section 3a of this act, reasonable rules prescribing exits, aisle clearances and other protective means and devices in public buildings as deemed necessary for the safety of persons.

HISTORY: CL 1948, 29.21;—Am. 1968, p. 573, Act 321, Imd. Eff. Jul. 3.

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29.21a Public buildings; fire extinguishers; materials, maximum toxicity.

Sec. 21a. (1) No person shall install for use or allow to remain installed for use in any place of public assemblage, public or private school, hospital, institution, business or office building, multiple dwelling, jail, nursing or convalescent home, detention home, school bus or any motor vehicle used for the transportation of passengers for hire, any fire extinguisher or fire extinguishing device containing an active agent having a level of vapor toxicity equal to or greater than any of the following listed materials, or any fire extinguisher or fire extinguishing device containing an active agent or propellant whose thermal decomposition product or products have a level of vapor toxicity equal to or greater than any of the following listed materials:

(a) Carbon tetrachloride, CCL_4
(b) Chlorobromomethane, CH_2 BrCL
(c) Azeotropic chlormethane, CM7
(d) Dibromodifluoromethane, CB_2F_2
(e) 1, 2-dibromo-2-chloro-1, 1, 2-trifluoroethane, Cbr-F_2CBrCLf
(f) 1, 2-dibromo-2, 2-difluoroethane, CH_2 BrCBrF_2
(g) Methyl bromide, CH_3Br
(h) Ethylene dibromide, CH_2BrCH_2Br
(i) Hydrogen bromide, HBr
(j) Methylene bromide, CH_2Br_2
(k) Bromodifluoromethane, $CHBrF_2$

(2) No person shall sell, give or offer for sale to any person any fire extinguisher or fire extinguishing device containing or designed to contain any active agent prohibited by this section if such fire extinguisher or fire extinguishing device is intended for installation and use in any building or motor vehicle referred to in this section above, or in a private dwelling or private vehicle, or is a grenade type or fusible link released device for use in a manufacturing or factory building where its vapors will be released into the atmosphere.

HISTORY: Add. 1961, p. 111, Act 102, Eff. Sep. 8;—Am. 1967, p. 130, Act 106, Eff. Aug. 1;—Am. 1968, p. 573, Act 321, Imd. Eff. Jul. 3.

29.21b Fire extinguishers; liquefied compressed gas, toxicity.

Sec. 21b. Notwithstanding the provisions of section 21a, liquefied compressed gas extinguishing agents meeting the following conditions of toxicity and use may be used in properly engineered fire extinguishing or fire control systems:

(a) The agent in its normal state does not fall within the definition of subsection (1) of section 21a.

(b) The compound is used only under conditions approved by the national fire protection association and a nationally recognized independent testing laboratory that has considered the hazard of the thermal decomposition products and use approved by the state fire marshal.

HISTORY: Add. 1970, p. 508, Act 163, Imd. Eff. Aug. 2.

29.22 Violation of act; penalty.

Sec. 22. Except as otherwise provided for in this act, any person who shall violate any provision of this act, or who shall maintain a fire hazard in violation of the provisions of this act shall be guilty of a misdemeanor.

HISTORY: Am. 1945, p. 83, Act 86, Imd. Eff. Apr. 11;—CL 1948, 29.22;—Am. 1970, p. 593, Act 212, Imd. Eff. Sep. 29.

29.23 Fire hazards declared public nuisance; abatement order, suit in chancery, injunction, jurisdiction.

Sec. 23. The existence of a fire hazard as defined in this act, of whatsoever nature, origin or cause, is hereby declared to be a nuisance and the same may be abated, re-

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moved, corrected and its continuance enjoined in the manner provided by law for the abatement of nuisances. Whenever the commissioner shall deem a fire hazard to be imminently dangerous or menacing to human life so that the public safety requires its immediate abatement, removal, correction or discontinuance, he may bring, or cause to be brought, in the circuit court of the county in which such fire hazard is located, a suit in chancery for the purpose of abating, removing, correcting or discontinuing such fire hazard. The pertinent provisions of Act No. 389 of the Public Acts of 1925, being sections 9093 to 9110, inclusive, of the Compiled Laws of 1929, and any amendments thereto, shall be applicable to the procedure in such suit: Provided, That the court may, in addition to the powers conferred by said act, make such order or decree as it shall deem necessary or expedient to ensure the safety and security of human life, and may direct that any building described in such bill of complaint be razed and removed and all rubbish and debris removed, or that the same be repaired and in what manner and to what extent. The court may, in such order or decree, direct and command the removal of occupancies of any building, and the discontinuance of any use of such building constituting a fire hazard or menace to human life, and may direct and command the clearing and improvement of premises as defined in this act and described in said bill of complaint. It may grant the issuance of a writ of injunction restraining the defendant or defendants from continuing the existence of any fire hazard and in such writ may include specific directions as to what shall be done by such defendant or defendants in the premises, and may retain jurisdiction of the cause for such time as it shall determine to compel complete performance of the terms and conditions of any order, decree, writ or other determination of the court in the premises. The court may direct that the abatement of such fire hazard be done by the department of the Michigan state police under such instructions as the court may specify, and with such provision for defraying the cost and expense thereof as to the court shall be deemed equitable and authorized by this act. No continuance of a hearing of such cause shall be granted except upon a clear showing of unavoidable circumstances. Jurisdiction of the court under this act shall not depend upon the amount of money, or value of property, involved.

HISTORY: CL 1948, 29.23.

NOTE: Act 389, 1925, above referred to, was repealed Compilers' §§ 692.251-692.268. See §§ 600.3801-600.3840, and GCR 1963, 78.

29.24 Annual report of commissioner to governor; recommendations for legislation.

Sec. 24. The commissioner shall include in his annual report to the governor as required by law, a detailed account of his administration of this act and of the receipts and disbursements made thereunder, together with such recommendations with reference to changes in this act as he may deem expedient.

HISTORY: CL 1948, 29.24.

29.25 Repeal; saving clause.

Sec. 25. Act No. 178 of the Public Acts of 1915, as amended, being sections 603 to 620, inclusive, of the Compiled Laws of 1929, is hereby repealed, and all other acts or parts of acts in anywise conflicting with or contravening the provisions of this act are hereby repealed: Provided, That no pending suit or proceedings, or order of the commissioner as ex officio state fire marshal heretofore issued, shall abate or be in any way affected by such repeal, but the same shall continue in full force and effect.

HISTORY: CL 1948, 29.25.

Sec. 26. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

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Act 202, 1970, p. 576; Eff. Apr. 1, 1971.

AN ACT to regulate the possession, handling, storage, control, use, sale, purchase, transfer, transportation or other disposition of explosives; to provide for permits in connection therewith; and to provide penalties.

The People of the State of Michigan enact:

29.41 Explosives; short title.

Sec. 1. This act shall be known and may be cited as the "explosives act of 1970".

HISTORY: New 1970, p. 576, Act 202, Eff. Apr. 1, 1971.

29.42 Definitions.

Sec. 2. As used in this act:

(a) "Explosive" means blasting powder, nitroglycerine, dynamite, TNT and any other form of high explosive, blasting material, fuse other than an electric circuit breaker, detonator and other detonating agent, a chemical compound or mechanical mixture containing oxidizing or combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion or other means of detonation of the compound or mixture or any part thereof may result in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property. An explosive does not include gasoline, kerosene, naphtha, turpentine, butane, propane, wet nitrocellulose or wet nitrostarch containing moisture in excess of 20%, or wet picric acid containing moisture in excess of 10%; or manufactured article such as fixed ammunition for small arms, fire crackers, safety flares or matches containing an explosive in such limited quantity that the collective and simultaneous detonation thereof is incapable of resulting in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property.

(b) "Dealer" means a person, not a manufacturer, engaged in the business of buying and selling explosives.

(c) "Person" means an individual, firm, partnership, corporation, association or other legal entity but does not include an officer of a law enforcement agency or of a fire department, while acting in his official capacity.

(d) "Director" means the director of the department of state police.

(e) "Issuing officer" means an officer of a local police or sheriff's department, or a designated officer of the state police.

HISTORY: New 1970, p. 576, Act 202, Eff. Apr. 1, 1971.

29.43 Disposition of explosives; permit required, exceptions.

Sec. 3. A person shall not handle, store, control, use, sell, purchase, transfer, transport or otherwise dispose of an explosive unless he has applied for, obtained and has on his person a valid permit as prescribed by this act, except that:

(a) This section does not apply to an employee, or agent other than an independent contractor, acting in the scope and course of his employment or agency and under the supervision of his employer or principal, where the employer or principal has applied for and obtained a valid permit.

(b) A person need not have the permit on his person where he is only storing explosives.

HISTORY: New 1970, p. 576, Act 202, Eff. Apr. 1, 1971.

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29.44 Permit; application, contents, fee.

Sec. 4. A permit may be issued by an issuing officer upon the completion in writing by the applicant on forms prescribed and provided by the director, of an application, the content of which shall at least include the (a) name, (b) address, (c) date of birth, (d) social security number, and (e) signature of the applicant. The applicant shall also indicate in writing the intended use of the explosive for which the permit is to be issued, and whether he has been convicted of a felony within 5 years. A fee of $1.00 shall accompany each application. All fees shall be retained by the local law enforcement office as full compensation for processing the permit.

HISTORY: New 1970, p. 576, Act 202, Eff. Apr. 1, 1971.

29.45 Permit; age of applicant, mental competence.

Sec. 5. A permit shall not be issued to an applicant who has not, on or before the date of application, attained the age of 18 years or who has been duly adjudged insane, unless subsequently restored by court order to full mental competency and capacity.

HISTORY: New 1970, p. 577, Act 202, Eff. Apr. 1, 1971.

29.46 Permit; copies, disposition; duration.

Sec. 6. A permit shall be issued in triplicate; the original shall be forwarded to the director, a copy shall be furnished to the applicant on the same day as the application is filed and approved and a copy shall remain on file with the issuing officer. Unless subsequently revoked, a permit is valid for 1 year after the date of issuance.

HISTORY: New 1970, p. 577, Act 202, Eff. Apr. 1, 1971.

29.47 Permit; refusal, grounds; notice.

Sec. 7. A permit may be refused to an applicant where the issuing officer has reasonable cause to believe that granting the permit would constitute a substantial and immediate danger to the public health, safety and welfare. Notice of refusal to issue a permit shall be given the applicant on the same day his application is made. Within 3 days thereafter, the issuing officer shall send to the applicant, by certified mail, a copy of the notice of refusal together with a statement in writing of the reason for the refusal.

HISTORY: New 1970, p. 577, Act 202, Eff. Apr. 1, 1971.

29.48 Permit; refusal, application for review; hearing, order of determination; judicial review.

Sec. 8. Within 15 days after the notice of refusal, the applicant may request, in writing on a form prescribed and provided by the director, a review by the director of the refusal. Within 30 days after receipt by the director of the application for review, he, or his duly authorized representative, shall conduct a hearing on the refusal and shall issue an order of determination on the review. The director shall send, by certified mail, to the applicant and to the issuing officer, a copy of his order of determination. The director's order of determination shall be reviewable, upon timely appeal, by the circuit court for the county of the applicant's residence or by the circuit court for the county of Ingham.

HISTORY: New 1970, p. 577, Act 202, Eff. Apr. 1, 1971.

29.49 Permit; revocation, grounds; procedures.

Sec. 9. An issuing officer may revoke a permit when he has reasonable cause to believe that its possession by the holder constitutes a substantial and immediate danger to the public health, safety and welfare. The procedures set forth in this act applicable to the refusal of issuance of a permit shall apply to revocation.

HISTORY: New 1970, p. 577, Act 202, Eff. Apr. 1, 1971.

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29.50 Permanent permit; issuance.

Sec. 10. The director may in his discretion issue a permanent permit to persons of known moral character, who have constant legitimate use of explosives.

HISTORY: New 1970, p. 577, Act. 202, Eff. Apr. 1, 1971.

29.51 Dealer; records, contents, disposition; duty as to permit.

Sec. 11. (1) A dealer shall keep and maintain such records on such forms as are prescribed and provided by the director, which records shall include (a) an amount of each sale, transfer or other disposition of explosives by him, (b) the date thereof, the name, age, address and permit number of the purchaser or transferee, and (c) the amount and type of explosive sold or transferred. The records shall be forwarded to the director on the last day of each month.

(2) A dealer or person shall not sell or otherwise transfer an explosive without first ascertaining that the purchaser or transferee has on his person and displays a valid permit.

HISTORY: New 1970, p. 577, Act 202, Eff. Apr. 1, 1971.

29.52 Permit; nonassignability.

Sec. 12. A person holding a valid permit shall not assign or transfer it to any other person.

HISTORY: New 1970, p. 577, Act 202, Eff. Apr. 1, 1971.

29.53 Explosives; storage.

Sec. 13. All explosives, other than those in use or transit as permitted by this act, shall be stored in a locked building or out building which shall be rigidly fixed to its base or foundation. Nothing in this section shall be construed to abrogate R28.131 through R28.200 of the Michigan administrative code.

HISTORY: New 1970, p. 577, Act 202, Eff. Apr. 1, 1971.

29.54 Explosives; handling while intoxicated prohibited.

Sec. 14. A person shall not handle an explosive while under the influence of intoxicating liquor or narcotic.

HISTORY: New 1970, p. 578, Act 202, Eff. Apr. 1, 1971.

29.55 Violation of act; penalty.

Sec. 15. A person who violates any provision of this act is guilty of a misdemeanor and shall be fined not more than $500.00 or imprisoned for not more than 1 year, or both.

HISTORY: New 1970, p. 578, Act 202, Eff. Apr. 1, 1971.

Act 226, 1879, p. 204; Eff. Aug. 30.

AN ACT to provide for the safety of persons attending public assemblies.

The People of the State of Michigan enact:

29.71 Public buildings; safe means of egress required.

Sec. 1. That it shall be unlawful for any hall, theater, opera house, church, school house, or building of any kind whatsoever, in any city or incorporated village, to be used for the assemblage of people unless the same is provided with ample means for the safe and speedy egress of the persons therein assembled in case of alarm.

HISTORY: How. 2096;—CL 1897, 5526;—CL 1915, 7212;—CL 1929, 8860;—CL 1948, 29.71.

THEATER FIRE ESCAPES: See Compilers' § 29.85.

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29.72 Public buildings; certificate of examination as to safe egress.

Sec. 2. That in all cities and incorporated villages it shall be unlawful for any person or persons, society, corporation, or individual whatsoever, who may be the owner or owners of or have the control of any hall, theater, opera house, church, schoolhouse, or building of whatsoever kind, to use or permit the same to be used for schools or public assemblages of people, unless said person or persons, society, corporation, or individual shall have, from the authorities hereinafter designated, of the city or incorporated village in which said hall, theater, opera house, church, school house, or building is situated, a certificate in writing certifying that they have examined the said hall theater, opera house, church, school house, or building, as the case may be, and that the same is well and sufficiently provided with means of speedy and safe egress for public assemblages in cases of danger or sudden alarm: Provided, That the doors in the halls of passage ways of all such buildings leading from the assembly room to the ground shall be made to open outward, in case the proper examining officers shall so order.

HISTORY: How. 2097;—CL 1897, 5527;—CL 1915, 7213;—CL 1929, 8861;—CL 1948, 29.72.

29.73 Board of building inspectors; membership, powers and duties.

Sec. 3. It shall be the duty of the mayor, by and with consent of the common council, of every city and of the president, by and with consent of the board of trustees or village council, of every incorporated village in this state, on or before the first day of May in each year, to appoint in and for their respective cities and villages, 3 competent mechanics, builders or architects, to be known as the board of building inspectors of such cities and villages, respectively, who shall hold and execute the duties of their offices until their successors shall be appointed and enter upon the duties of their offices; and whose duty it shall be to make inspection of buildings and structures in their respective cities and villages as herein provided; and in every township in this state, the township board is hereby constituted the board of building inspectors in such township, and shall perform and exercise the powers and duties of building inspectors as herein provided.

HISTORY: Am. 1881, p. 36, Act 41, Eff. Sept. 10;—How. 2098;—CL 1897, 5528;—CL 1915, 7214;—CL 1929, 8862;—CL 1948, 29.73.

29.74 Board of building inspectors; enumeration of powers and duties as to inspection, certification, records, review of action.

Sec. 4. Whenever any board of building inspectors, or any 2 of them, shall be requested to inspect any hall, opera house, school house, church, stand, platform, or other building or structure of any kind, used or intended to be used, or occupied for schools, or by public assemblages, or by any gatherings or assemblages of people in their city, village, or township; it shall be their duty forthwith to make a thorough inspection and examination of such building, stand, or other structure, with reference to its condition, strength and safety for use or occupation for schools, or by any public meetings, gatherings or assemblages of people, and for the safe and speedy egress of the persons therein and thereon assembled, in case of sudden danger or alarm; and if such board or any 2 of them shall find the same to be sufficiently strong and substantial, and amply safe for the use, meeting and assembling therein or thereon, of so many persons as the size and capacity of such building or structure will permit at one and the same time, and for the safe and speedy egress of persons therein and thereon assembled, in case of sudden danger or alarm, they shall so certify in writing under their hands, and deliver such certificate to the person or persons requesting such examination, and shall state therein, for what length of time such building or structure may be deemed safe for the purposes aforesaid. Said inspectors shall keep a record of all buildings and structures inspected by them, with the dates of such inspections, and copies of all certificates granted by them as aforesaid: Provided, That if any owner or owners, or person or persons having control of any hall or other building or structures herein

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above mentioned located in any city or incorporated village, shall feel himself or themselves aggrieved by the decision of said authorities, he or they may appeal therefrom to the city council or to the village board of trustees, or village council, who shall give such person or persons a full and fair hearing, and shall sustain or reverse the action of said board of examiners, and from such decision there shall be no appeal. And provided, further, That the common council, village council, board of trustees, or township board, as the case may be, may require a re-examination and inspection of any such buildings or structures, whenever, from proper information, or otherwise, they shall deem such re-examination and inspection necessary.

HISTORY: Am. 1881, p. 37, Act 41, Eff. Sept. 10;—How. 2099;—CL 1897, 5529;—CL 1915, 7215;—CL 1929, 8863;—CL 1948, 29.74.

29.75 Use of uncertified building for assembly prohibited; penalty.

Sec. 5. No such buildings or structures as are mentioned in sections 2 and 4 of this act, shall be used or occupied for any purposes, meetings or assemblages, in those sections mentioned or referred to, until after the same shall have been inspected and certified to be safe, as in said sections provided. And if any owner, occupant, lessee, manager, person or persons, officer or officers, in charge of, or having the management or control of any such building or structure, shall permit or allow the same to be used or occupied for any of the purposes or by any such meetings, gatherings, or assemblages of people as are mentioned or referred to in this act, unless such buildings or structure shall have been first examined and inspected and certified as herein provided, to be sufficient and safe for such purposes, meetings and assemblages, or shall allow such building or structure to be so used or occupied after the time within which the same may be deemed safe, according to such certificate, then and in every such case, every such owner, occupant, lessee, manager, person or officer in charge of, or having the management or control of any such building or structure, so permitting, allowing or consenting to any such use or occupation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than 100 nor more than 500 dollars, or by imprisonment in the state house of correction not less than 90 days, nor more than 1 year, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: Add. 1881, p. 37, Act 41, Eff. Sept. 10;—How. 2100;—CL 1897, 5530;—CL 1915, 7216;—CL 1929, 8864;—CL 1948, 29.75.

29.76 Fraudulent, collusive or negligent procurement or issuance of certificate; penalty.

Sec. 6. If any owner of such building or structure as aforesaid, or any other person shall procure or aid in procuring the granting of any such certificate as is mentioned in said section 4, by means of any deceit, misrepresentation or concealment of any defects in any such building or structure, or if any building inspector shall falsely, negligently or collusively grant or sign any such certificate as is provided for in said section 4, then each and every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished in the same manner as provided in section 5 of this act.

HISTORY: Add. 1881, p. 38, Act 41, Eff. Sept. 10;—How. 2101;—CL 1897, 5531;—CL 1915, 7217;—CL 1929, 8865;—CL 1948, 29.76.

29.77 Building inspectors; compensation.

Sec. 7. Each building inspector shall be entitled to receive for each day he shall be actually employed in inspecting any building under the provision of this act, to be paid by the owner or person requesting such inspection and examination, such sum as may be fixed by the common council, village council, board of trustees, or township board, of any city, village, or township, respectively.

HISTORY: Add. 1881, p. 38, Act 41, Eff. Sept. 10;—How. 2102;—CL 1897, 5532;—CL 1915, 7218;—CL 1929, 8866;—CL 1948, 29.77.

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Act 257, 1913, p. 481; Imd. Eff. May 7.

AN ACT to regulate the construction and operation of moving picture shows and theaters showing moving pictures; to provide for an inspection fee for operating the same; to place supervision of such shows and theaters under the department of the state fire marshal; and to prescribe the powers and duties of the state fire safety board. Am. 1915, p. 285, Act 173, Eff. Aug. 24;—Am. 1970, p. 378, Act 122, Imd. Eff. Jul. 23.

The People of the State of Michigan enact:

29.81 Moving picture machine; installation requirements, exceptions.

Sec. 1. No moving picture machine shall hereafter be installed in any building to which the public is admitted except as hereinafter provided, and no audience room in which exhibitions of moving pictures are given shall hereafter be opened to the public except when in full compliance with the requirements of this act: Provided, however, That this act shall not apply to moving picture exhibitions given solely for religious, benevolent, educational, mechanical, or scientific demonstration purposes; but in all such cases the state fire marshal or his duly authorized representative shall prescribe the necessary safety devices and shall approve of the building in which any such exhibition is given and of the films, safety appliances and devices used in connection therewith.

HISTORY: Am. 1915, p. 285, Act 173, Eff. Aug. 24;—CL 1915, 7165;—Am. 1919, p. 639, Act 364, Eff. Aug. 14;—CL 1929, 8867;—CL 1948, 29.81.

STATE FIRE MARSHAL: The commissioner of the Michigan state police is the state fire marshal, see Compilers' § 29.1.

29.82 Moving picture theaters; operating booth, requirements.

Sec. 2. The entire equipment, electrical devices, rheostat and picture machine in every moving picture show and theater showing moving pictures shall be enclosed in a room or booth large enough for operator to walk freely on either side and back of machine and not less than 7 feet in height and of 1 of the following constructions:

(a) If the room or booth is constructed of brick, tile or concrete, it shall have walls, floor and ceiling or roof not less in thickness than 8 inches except that if reinforced concrete is used the thickness need by only 4 inches.

(b) If the room or booth is constructed of cement plaster on expanded metal the frame shall be made of suitable I beams, angle or tee iron. Expanded metal shall have studs made by folds or be attached to substantial metal studs spaced at least every 2 feet.

Floor shall be made of concrete at least 4 inches thick and properly supported. Grooves or binders for gravity doors for openings shall be securely fastened to metal studding. Cement plaster shall be at least 2 inches thick. Material composing the cement plaster shall be as follows:

Portland cement	5 parts.
Sand	12 parts.
Lime paste	1 part.

(c) An asbestos wood booth shall be substantially constructed of asbestos lumber of the thickness of ¼ inch on sides and top and ¼ inch on bottom securely supported by angle iron frame of not less than 1 inch by ¼ inch, all cross joints to be securely covered by strips of iron outside and inside and securely riveted or bolted together.

(d) A portable booth shall have frames made of at least 1-½ inch by 1- ½ inch by ¼ inch angle or tee iron. Intermediate uprights shall be spaced at least every 4 feet.

The booth shall be covered with steel or galvanized sheet iron of not less than number 20 United States gauge. The booth may be made in a folding type so constructed that when assembled it will be rigid and all joints tight that flames may not pass

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through them. The base of the booth shall have a flange extension outward on all 4 sides provided with a sufficient number of holes, through which booth may be fastened to the floor. Special means for ventilation need not be provided except that there shall be an opening for ventilation in the top of the booth, this opening shall be at least 10 inches in diameter and a metal sleeve at least 18 inches in height, provided with a ventilating cap, shall be attached thereto.

(e) Entrance of main door to booth shall be of the standard corridor door construction for booths of types (a) and (b); asbestos lumber for types (c) and (d).

The main or entrance door shall open outward and shall be provided with a substantial spring that shall keep it closed tightly. There shall be not more than 4 openings in the booth for each machine, 1 for observation by the operator and 3 for operation of machine. These openings shall not exceed 12 inches in either dimension and each shall be provided with a gravity door constructed of sheet metal or asbestos lumber not less than number 14 United States guage and when closed shall overlap the opening at least 1 inch on all sides and arrange to slide, without binding, in properly constructed grooves. These doors shall be held open normally by the use of a fine combustible cord fastened to a 160 degree F. fusible link, the whole so arranged that the door may be easily released and closed by hand.

(f) All shelves, furniture and fixtures within the booth shall be constructed of noncombustible material.

(g) Near the center of the top of the booth shall be an opening at least 10 inches in diameter for ventilation with a pipe leading to the outer air. This pipe is to be connected to a chimney or provided with an exhaust fan, or shall itself be not less than 15 feet in length to provide suction from the booth.

(h) Notwithstanding subdivisions (a), (b), (c), (d), (e), (f) and (g), in every theater hereafter constructed, in every building hereafter converted to theater use and in every conversion or alteration of an operating booth in an existing theater, the operating booth shall be of such specifications and construction as regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended, being sections 29.1 to 29.25 of the Compiled Laws of 1948.

(i) If acetate film is used in any moving picture machine, subdivisions (f) and (g) need not be complied with and the projection and observation ports may be increased in size, except that each port shall not exceed 720 square inches in area.

HISTORY: CL 1915, 7166;—CL 1929, 8868;—CL 1948, 29.82;—Am. 1970, p. 378, Act 122, Imd. Eff. Jul. 23.

29.83 Moving picture machines and equipment; construction, installation, use.

Sec. 3. The moving picture machines and equipment in such shows and theaters showing moving pictures shall be installed, constructed and operated in the following manner:

(a) The moving picture machines and all electrical equipment shall be constructed and installed as required by the national electrical code.

(b) Each machine shall be securely fastened to the floor to prevent accidental overturning or moving of same.

(c) No moving picture machine shall be operated other than by hand power. The handle or crank used in operating the machine shall be secured to the spindle or shaft so as to prevent its coming off. A motor driven machine of a type expressly designed for driving by electric motor and approved by the state fire marshal, may be installed.

(d) No films shall be exposed in the booth at the same time, other than the 1 film in process of transfer to or from the machine or from the upper to lower magazine, or in process of rewinding. A separate metal case, made without solder, shall be provided for each film when the same is not in the magazine or in process of rewinding, said

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film to be kept in these cases. No material of a combustible nature shall be stored within any booth except the films needed for 1 day's operation.

(e) Arc lamp shall be controlled by double pole switch and enclosed fuse cut-out within easy reach of operator.

(f) Reinforced cord shall be used for all pendant lights and all lights shall be provided with approved wire lamp guards.

(g) If acetate film is used in any moving picture machine, subdivisions (d) and (f) need not be complied with.

HISTORY: CL 1915, 7167;—CL 1929, 8869;—CL 1948, 29.83;—Am. 1970, p. 379, Act 122, Imd. Eff. Jul. 23.

29.84 Audience room; location, construction.

Sec. 4. (1) Except as otherwise provided in subsection (2), in every theater hereafter constructed, in every building hereafter converted to theater use and in every addition to an existing theater, the floor of the room in which the moving picture exhibitions are given shall be the first or main floor of the building in which the room is located and the building shall be of at least 1 hour protected ordinary construction.

(2) The floor of the room in which moving picture exhibitions are given need not be the first or main floor of the building in which the room is located if the building is of fire resistive construction.

(3) As used in this section "one hour protected ordinary construction" means a type of construction in which exterior bearing walls have at least the fire resistive ratings of masonry and in which roofs and interior framing, if of wood or other combustible materials, are protected so as to afford an assembly having at least a 1 hour fire resistance rating.

(4) As used in this section "fire resistive construction" means a building having all walls, ceilings, floors, partitions and roofs of noncombustible materials such as stone, brick, tile, concrete, gypsum, steel or materials with similar fire resistive ratings and in which all structural members are of such assembly so as to afford a minimum fire resistance rating of 1 hour or are protected by material that will afford a minimum fire resistance rating of 1 hour.

(5) As used in this section "first or main floor" means any floor approximately on the level with the street in front of the main entrance to such building.

HISTORY: CL 1915, 7168;—CL 1929, 8870;—CL 1948, 29.84;—Am. 1968, p. 178, Act 115, Imd. Eff. Jun. 11;—Am. 1970, p. 380, Act 122, Imd. Eff. Jul. 23.

29.85 Audience room; exits, aisles, doors.

Sec. 5. (1) Any audience room in which moving picture exhibitions are given shall be provided with at least 2 exits on the main floor, easily accessible from all parts of the main floor by means of at least 1 aisle. Aisles shall have, in the aggregate, a width of 18 inches for each 100 of the seating capacity of such room, and for fractional parts of 100 a proportionate part of 18 inches shall be added; but no aisle shall be less than 2 feet 6 inches in width, and no aisle shall be required to exceed 4 feet in width. Where balconies or galleries are used by the audience, 1 exit from this point to the street or alley shall be provided for each 200 seats or fractional part thereof installed. For rooms 100 feet or less in length, the main entrance may be considered as 1 exit and a second exit shall be provided at the opposite end of the room and open upon a public street, alley or other open, unoccupied space having unobstructed access to a street or alley, except that upon written request the fire marshal may approve aisles of less width then herein required if in his discretion such aisles are safe. If the request for approval is denied by the fire marshal, the person making the request may appeal the denial to the state fire safety board in the same manner as provided in section 3c (3) of Act No. 207 of the Public Acts of 1941, as amended, for review of interpretations and applications of rules promulgated by the state fire safety board.

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(2) Exit doors shall open outward and shall not be locked when the building is open to the public. Where only 1 exit in addition to the main entrance is provided, the exit shall be not less than 6 feet wide and 7 feet high, and in any case shall not be less than 3 feet wide and 7 feet high. Exits shall open outward upon and be of easy access to a street or alley, passageways and stairways. Inclines, leading from exits to street or alleys, shall be kept well lighted at all times and be not less than 6 feet wide; switch shall be an indicating type; wiring for exit light installed in iron conduit and fuses for exit circuit placed ahead of the main line switch and cut out.

(3) Architectural treatment, mirrors, false windows, doors or other decorations shall not be used so as to give the appearance of a door or exit where no door or exit exists, or placed so as to decrease the width or height or in any manner impair the use of any exit. Nothing shall be hung or placed in front of any exit sign which obstructs or prevents a clear view of the exit sign from all parts of the room. In every theater hereafter constructed, in every building hereafter converted to theater use and in every existing theater in which exit doors are at anytime replaced or in which new exit doors are at anytime installed, exit doors shall be of a type regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended. In addition to other requirements in this section, in every theater hereafter constructed, in every building hereafter converted to theater use and in every theater where seating capacity is increased, exits shall be of such location, size and number as regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended.

HISTORY: CL 1915, 7169;—CL 1929, 8871;—CL 1948, 29.85;—Am. 1970, p. 380, Act 122, Imd. Eff. Jul. 23.

29.86 Audience room exits; marking, lighting.

Sec. 6. Each exit shall be marked by means of an illuminated red sign, containing the word "Exit" in 4-inch white letters easily discernible by the audience at any time during the performance. Lights used in marking exit or lighting passageways, stairways or inclines leading from them, shall not depend upon or be controlled by switches or fuses located in a room, compartment or booth containing moving picture machines but shall be placed in easy access in front of the house. All wiring for exit light circuits, regardless of when installed, shall be fused ahead of the main line switch or disconnect.

HISTORY: CL 1915, 7170;—CL 1929, 8872;—CL 1948, 29.86;—Am. 1970, p. 381, Act 122, Imd. Eff. Jul. 23.

29.87 Audience room seats; movability; number in row.

Sec. 7. All seats occupied by the audience shall be fixed and immovable at the base, except those in loges and boxes which may be of a portable nature. A row of seats opening onto an aisle at 1 end only shall have not more than 8 seats and a row of seats opening at each end onto an aisle shall have not more than 14 seats, except that upon written request the fire marshal may approve the installation of more seats per row than herein provided if in his discretion the seating arrangement is safe. Denial of a request may be appealed in the manner provided in section 5.

HISTORY: CL 1915, 7171;—CL 1929, 8873;—CL 1948, 29.87;—Am. 1970, p. 381, Act 122, Imd. Eff. Jul. 23.

29.88 Moving picture houses; unlawful when persons living above auditorium.

Sec. 8. No moving picture show or theatre showing moving pictures shall hereafter be installed in any building which has any roomers or families living directly over the theatre or auditorium proper.

HISTORY: CL 1915, 7172;—CL 1929, 8874;—CL 1948, 29.88.

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29.89 Audience room; clearance of aisles and rear spaces during performance.

Sec. 9. All aisles and space in rear of seats and exits must at all times be kept clear and unobstructed during performances.

HISTORY: CL 1915, 7173;—CL 1929, 8875;—CL 1948, 29.89.

29.90 Operating booth; smoking prohibited.

Sec. 10. Neither smoking nor the keeping nor use of matches shall be permitted in any booth, room, compartment or enclosure where a motion picture machine is installed.

HISTORY: CL 1915, 7174;—CL 1929, 8876;—CL 1948, 29.90.

29.91 Operator; age, examination by fire marshal.

Sec. 11. No person shall operate any motion picture machine in this state unless he shall be not less than 18 years of age and the state fire marshal whenever he shall deem it necessary may examine any operator of a motion picture machine as to his fitness to operate such machine and if he shall find any such operator incompetent, then such operator shall not be permitted to operate any such machine in this state until such incompetency shall have been removed.

HISTORY: CL 1915, 7175;—CL 1929, 8877;—CL 1948, 29.91.

29.92 Violation of act; investigation by fire marshal; duty of prosecutor.

Sec. 12. Whenever the state fire marshal or his deputies or assistants shall find upon an investigation or examination, that any of the provisions of this act have been violated after due notice given, then he shall communicate the fact of such violation together with any evidence he may have to the prosecuting attorney of the county in which such violation has occurred, and it shall thereupon be the duty of such prosecuting attorney to cause the arrest and prosecution of the person or persons so violating.

HISTORY: CL 1915, 7176;—CL 1929, 8878;—CL 1948, 29.92.

29.93 Open air exhibitions subject to provisions of act.

Sec. 13. All requirements of this act relating to seats, aisles, passageways, exits and doors shall apply in connection with each open air motion picture exhibition.

HISTORY: CL 1915, 7177;—CL 1929, 8879;—CL 1948, 29.93.

29.94 Violation of act; disconnecting electricity by fire marshal after notice.

Sec. 14. Whenever the provisions of this law are not conformed to, or where defects of installation exist, the state fire marshal, assistant state fire marshal or any deputy fire marshal 5 days after a written notice is served on the proprietor is hereby empowered to cut off all electric current from said room or building and the supply of electric current shall not be restored by any one until all the provisions of this law are complied with.

HISTORY: CL 1915, 7178;—CL 1929, 8880;—CL 1948, 29.94.

29.95 Inspection of theater; annual; fee; plans, approval; cities.

Sec. 15. Every motion picture show, theater or other amusement place or audience room showing motion pictures shall be inspected by the state fire marshal, his deputy or assistant state fire marshal not less than once each year. The owner of a moving picture show, theater or other amusement place or audience room showing motion pictures shall pay to the state fire marshal for each inspection, the sum of $10.00, and all money so paid shall be turned over to the state treasurer and credited to the general fund. No more than $10.00 shall be collected for such inspections in any one year on account of any one place of amusement or other audience room. Whenever the motion picture show, theater or other amusement place or audience room is situated in a city or village, incorporated or unincorporated, having a population of less than 2,000 in-

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habitants, the annual inspection fee shall not exceed $5.00. A theater shall not hereafter be constructed nor shall any building hereafter be converted to theater use until complete drawings of the entire facility are submitted to and approved by the state fire marshal. An addition to or alteration or remodeling of an existing theater shall not be made until drawings of the addition, alteration or remodeling and adjacent areas of the building affected are submitted to and approved by the state fire marshal. Whenever the motion picture show, theater or other amusement place or audience room is situated in a city of 50,000 or more population, the requirements for inspections, fees, permits and the submission of drawings to the state fire marshal, shall not apply, except that periodical inspections may be conducted by the municipal fire department services to determine if the provisions of this act are being complied with.

HISTORY: Am. 1915, p. 286, Act 173, Eff. Aug. 24;—CL 1915, 7179;—Am. 1927, p. 126, Act 90, Eff. Sep. 5;—CL 1929, 8881;—Am. 1945, p. 41, Act 45, Imd. Eff. Mar. 13;—CL 1948, 29.95;—Am. 1959, p. 330, Act 226, Eff. Mar. 19, 1960;—Am. 1970, p. 381, Act 122, Imd. Eff. Jul. 23.

29.96 License of moving picture show; issuance by state fire marshal.

Sec. 16. Whenever the state fire marshal by himself or deputies shall find by any inspection required by section 15 that any motion picture show is being conducted in accordance with the provisions of this law he shall issue the owner thereof his official receipt or license to continue such operations until such motion picture show shall be next inspected. Such license shall not be issued until said owner shall have paid the inspection fee herein provided to the state treasurer.

HISTORY: CL 1915, 7180;—CL 1929, 8882;—CL 1948, 29.96;—Am. 1959, p. 331, Act 226, Eff. Mar. 19, 1960.

29.97 License; display.

Sec. 17. Said official inspection receipt shall be posted in a conspicuous place where it can be readily seen by the public.

HISTORY: CL 1915, 7181;—CL 1929, 8883;—CL 1948, 29.97.

29.98 Violation of act; penalty.

Sec. 18. Any owner or manager of any moving picture show or theater showing moving pictures violating any of the provisions of this act and who shall be convicted thereof, or who shall plead guilty to any complaint for the violation thereof shall be punished by a fine not exceeding 25 dollars and costs of prosecution, or if such fine be not paid, then by imprisonment in the county jail for a period not exceeding 10 days; for the second offense, he shall be punished by a fine not exceeding 50 dollars and cost of prosecution, or if such fine not be paid, then by imprisonment in the county jail for a period not exceeding 30 days, and for a third offense or any subsequent offense he shall be punished by a fine not exceeding 100 dollars and costs of prosecution, or by imprisonment in the county jail or in the Detroit house of correction for a period not exceeding 30 days, or by both such fine and imprisonment.

HISTORY: CL 1915, 7182;—CL 1929, 8884;—CL 1948, 29.98.

Sec. 19. (This was a repeal section.)

HISTORY: CL 1915, 7183;—CL 1929, 8885;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

29.100 Local regulation; concurrent jurisdiction of state fire marshal.

Sec. 20. Provided, however, That in municipalities having ordinances providing for the regulation and installation and operations of moving picture machines, nothing herein shall be construed to abrogate such local regulation, but the jurisdiction of the state fire marshal shall in such cases be concurrent with that of the municipal authorities.

HISTORY: CL 1915, 7184;—CL 1929, 8886;—CL 1948, 29.100.

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29.101 Declaration of necessity of act.

Sec. 21. It is hereby declared that this act is immediately necessary for the public health, peace and safety.

HISTORY: CL 1915, 7185;—CL 1929, 8887;—CL 1948, 29.101.

29.102 Wall and ceiling surfaces; regulations.

Sec. 22. In every theater hereafter constructed, in every conversion of an existing building to theater use and in the remodeling or alteration of wall and ceiling surfaces in existing theaters, wall and ceiling surfaces shall be of such materials as regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended.

HISTORY: Add. 1970, p. 381, Act 122, Imd. Eff. Jul. 23.

29.103 Draperies and hanging furnishings; regulations.

Sec. 23. All draperies and other types of hanging furnishings hereafter installed in any theater shall be of materials regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended.

HISTORY: Add. 1970, p. 382, Act 122, Imd. Eff. Jul. 23.

29.104 Combustible materials; storage regulations.

Sec. 24. Combustible materials shall not be stored other than in rooms of such location and construction as regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended.

HISTORY: Add. 1970, p. 382, Act 122, Imd. Eff. Jul. 23.

29.105 Heating system.

Sec. 25. In every theater hereafter constructed, in every building hereafter converted to theater use and in every existing theater in which a heating system at any time is replaced or a new heating system installed, the heating system shall be of such type and so enclosed as regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended.

HISTORY: Add. 1970, p. 382, Act 122, Imd. Eff. Jul. 23.

29.106 Air conditioning or handling system.

Sec. 26. In every theater hereafter constructed, in every building hereafter converted to theater use and in every existing theater in which an air conditioning or air handling system is at any time replaced or in which an air conditioning or air handling system is at any time installed, the air conditioning or air handling system, when it is to serve more than one room, shall be of such type and so located as regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended.

HISTORY: Add. 1970, p. 382, Act 122, Imd. Eff. Jul. 23.

29.107 Electrical wiring and equipment.

Sec. 27. Except as otherwise provided in section 6, all electrical wiring and equipment in every theater hereafter constructed, in every building hereafter converted to theater use and in every addition to an existing theater shall be of such type and so located and installed as regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended.

HISTORY: Add. 1970, p. 382, Act 122, Imd. Eff. Jul. 23.

29.108 Fire extinguishers.

Sec. 28. Fire extinguishers in theaters shall be of such number, types, sizes and in such locations as regulated by the state fire safety board pursuant to the provisions of Act No. 207 of the Public Acts of 1941, as amended.

HISTORY: Add. 1970, p. 382, Act 122, Imd. Eff. Jul. 23.

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Act 327, 1947, p. 569; Imd. Eff. Jul. 2.

AN ACT to regulate the installation and operation of dry cleaning and dry dyeing plants; to establish standards in accordance with which buildings devoted to such occupancy shall be constructed and located; to establish minimum requirements according to which equipment used for dry cleaning and dry dyeing shall be built, installed and operated; to prescribe the powers and duties of the state fire marshal and the Michigan department of health and the authority of municipal fire department authorities with respect thereto; and to prescribe penalties for the violation of the provisions of this act. Am. 1956, p. 319, Act 167, Eff. Aug. 11;—Am. 1961, p. 238, Act 165, Eff. Sep. 8.

The People of the State of Michigan enact:

CHAPTER I.

DEFINITIONS.

29.201 Dry cleaning act; methods, definitions.

Sec. 1. For the purposes of this act "dry cleaning" shall be defined as the process of removing dirt, grease, paints and other stains from wearing apparel, textiles, fabrics, rugs, etc., by the use of nonaqueous liquid solvents. Methods of dry cleaning include:

(a) Immersion and agitation in open vessels.

(b) Immersion and agitation in closed machines.

(c) "Spotting" or local application of flammable liquid solvents to spots of dirt, grease, paints and stains not removed by the immersion and agitation process.

(d) "Brushing" or "scouring" with inflammable solutions.

State fire marshal shall mean the director of the Michigan department of state police or his duly authorized representative.

The department of public health shall mean the director or his duly authorized representative.

The term "approved" shall mean acceptable to the state fire marshal in the case of class I, II and III installations and to the Michigan department of public health for class IV installations.

The term "fire resistive construction" shall mean walls, floors, partitions constructed of brick, stone, concrete, solid cement block or equivalent.

HISTORY: CL 1948, 29.201;—Am. 1956, p. 320, Act 167, Eff. Aug. 11;—Am. 1966, p. 521, Act 306, Eff. Mar. 10, 1967.

29.202 Dry dyeing; definition.

Sec. 2. Dry dyeing shall be considered as the process of dyeing clothes or other fabrics or textiles in a solution of dye colors and non-aqueous solvents.

HISTORY: CL 1948, 29.202.

29.203 Dry cleaning; construction of term.

Sec. 3. In the sections which follow, wherever reference is made to "dry cleaning," it shall be construed as applying to both dry cleaning and dry dyeing operations.

HISTORY: CL 1948, 29.203.

29.203a Dry cleaning machine; definition.

Sec. 3a. As used in this act "dry cleaning machine" means a device in which clothes or textiles are immersed in nonaqueous solutions and agitated for the purpose of removal of dirt or soil. The number of dry cleaning machines shall be determined on the basis of the number of drums, tumblers or containers used for such agitation.

HISTORY: Add. 1962, p. 450, Act 205, Imd. Eff. Jun. 18.

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CHAPTER II.

GENERAL REQUIREMENTS.

29.204 Dry cleaning by agitation in open vessels prohibited; exceptions.

Sec. 4. Except as provided in sections 35 through 39, dry cleaning by immersion and agitation in open vessels is prohibited.

HISTORY: CL 1948, 29.204.

29.205 Dry cleaning by agitation in closed machines; approved equipment required.

Sec. 5. Dry cleaning by immersion and agitation in closed machines should be carried on with approved machinery and equipment installed and operated in accordance with the requirements as outlined in this act.

HISTORY: CL 1948, 29.205.

29.206 Dry cleaning plants; plans, contents and specifications; approval by fire marshal and public health department.

Sec. 6. Before any dry cleaning plant is established or before an existing plant is remodeled, complete drawings shall be submitted to the state fire marshal in the case of class I, II and III plants and the department of public health in the case of class IV plants for examination and approval. These drawings should be drawn to an indicated scale, give relative location of dry cleaning building, boiler room, finishing building or department, storage tanks for solvents, pumps, washers, drying tumblers, extractors, filter traps, stills, condensers, piping, etc., show section elevation of the buildings, (including lowest floors or pits, tanks, their fittings, devices, etc.). Specifications based on the following sections should accompany the drawings.

HISTORY: CL 1948, 29.206,—Am. 1956, p. 320, Act 167, Eff. Aug. 11;—Am. 1966, p. 522, Act 305, Eff. Mar. 10, 1967.

29.207 Plants; final inspection; permits, fees.

Sec. 7. When construction and installation of class I, II and III installations have been completed, the state fire marshal shall be notified and he shall cause an inspection to be made of the buildings and premises in which dry cleaning operations are contemplated. If the same conform to the plans submitted in accordance with section 6, then he shall cause to be issued to the applicant a permit, or if the installation is within a municipality of 20,000 or more population having an organized fire department which conducts periodic inspections, a written approval for the conduct of such dry cleaning operation and business. When the construction and installation of a class IV plant has been completed, the department of public health shall be notified and they shall cause an inspection to be made of the buildings and premises in which the dry cleaning operations are contemplated. If the same conform to the approved plans submitted in accordance with section 6, then the state health director shall issue to the applicant a permit for the conduct of such dry cleaning operation and business. No person, firm or corporation shall engage in the business of dry cleaning or dry dyeing nor shall any operations begin until a permit or written approval has been issued. The state fire marshal in the case of class I, II and III plants and the department of public health in the case of class IV plants may receive applications for permits and, if all the requirements of the law have been met, may issue permits which shall extend until January 1 next after the date of issue. Upon filing of application for such permit, the applicant shall pay to the state fire marshal in the case of class I, II and III plants and the department of public health in the case of class IV plants a fee of $15.00 for the

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first dry cleaning machine and $6.00 for each additional dry cleaning machine with a maximum of $75.00 for 1 establishment or location. In municipalities of 20,000 or more population, the requirements for applications, issuance of permits and payment of fees for class I, II and III businesses shall not apply.

HISTORY: CL 1948, 29.207;—Am. 1956, p. 320, Act 167, Eff. Aug. 11;—Am. 1961, p. 238, Act 165, Eff. Sep. 8;—Am. 1962, p. 450, Act 205, Imd. Eff. Jun. 18;—Am. 1966, p. 522, Act 306, Eff. Mar. 10, 1967.

29.208 Plants; periodic inspections; permit renewal, fee; display of permit.

Sec. 8. The state fire marshal by himself or his deputies shall make periodic inspections of class I, II and III dry cleaning establishments to see that all requirements of the law are being met. The department of public health shall make periodic inspections of class IV dry cleaning establishments to see that all requirements of the law are being met. Every person, firm or corporation conducting a dry cleaning or dry dyeing business shall make application for renewal of permit within 30 days after the expiration thereof. Such application shall be accompanied by a license fee of $15.00 for the first dry cleaning machine and $6.00 for each additional dry cleaning machine with a maximum of $75.00 for 1 establishment or location. If the applicant has complied with the provisions of this act and with the laws of the state, and the ordinances of the municipality where the business is located, the state fire marshal in the case of class I, II and III plants and the department of public health in the case of class IV plants shall issue a renewal to extend to January 1 next following date of issuing renewal. All permits shall be exhibited at all times in the front window or on the front door in a conspicuous place. In municipalities of 20,000 or more population, the requirements for applications, issuance of permits, payment of fees and inspections of class I, II and III businesses shall not apply, except that periodic inspections may be conducted by municipal fire department services to determine if the provisions of this act are being complied with.

HISTORY: CL 1948, 29.208;—Am. 1956, p. 320, Act 167, Eff. Aug. 11;—Am. 1961, p. 238, Act 165, Eff. Sep. 8;—Am. 1962, p. 450, Act 205, Imd. Eff. Jun. 18;—Am. 1966, p. 522, Act 306, Eff. Mar. 10, 1967.

29.209 Scope of provisions regarding periodic inspection.

Sec. 9. The provision of section 8 shall extend to all persons, firms or corporations conducting a dry cleaning or dry dyeing business whether or not they shall have secured permits under this act or any previous act.

HISTORY: CL 1948, 29.209;—Am. 1961, p. 239, Act 165, Eff. Sep. 8.

29.210 Plants; annual license fee; permit, annual renewal.

Sec. 10. Except as provided in section 8, all persons, firms or corporations engaged in dry cleaning exclusively with nonflammable or flammable solvents shall pay a license fee of $15.00 for the first dry cleaning machine and $6.00 for each additional dry cleaning machine with a maximum of $75.00 for 1 establishment or location, such fee to extend to January 1 next following date of issuance. Yearly permits shall be issued by the state fire marshal in the case of class I, II and III plants and by the department of public health in the case of class IV plants upon payment of said fee. Permits shall be renewed yearly within 30 days after the expiration thereof.

HISTORY: CL 1948, 29.210;—Am. 1961, p. 239, Act 165, Eff. Sep. 8;—Am. 1962, p. 451, Act 205, Imd. Eff. Jun. 18;—Am. 1966, p. 523, Act 306, Eff. Mar. 10, 1967.

29.210a Plants; inspection by local health department; reimbursement by state.

Sec. 10a. In the case of class IV dry cleaning establishments, the department of public health shall delegate the duty of inspections for approval for licensing to any local health department, which has the technical and other capabilities to protect adequately the public health in this field. The state shall reimburse each local health department the full amount of the fees collected, as reimbursement for cost of inspec-

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tion, on vouchers certified by the director of the local health department and approved by the director of the department of public health.

HISTORY: Add. 1962, p. 451, Act 205, Imd. Eff. Jun. 18;—Am. 1966, p. 523, Act 308, Eff. Mar. 10, 1967.

29.210b Plants outside certain municipalities; issuance of permits, fees; approval.

Sec. 10b. When a dry cleaning establishment operates both class I, II, III and also class IV dry cleaning machines in the same building or establishment located outside a municipality of 20,000 or more population, application and fee shall be submitted to and permits shall be issued by the state fire marshal. The state fire marshal shall not issue such permits of operation of class IV equipment until he has received approval from the department of public health.

HISTORY: Add. 1966, p. 523, Act 308, Eff. Mar. 10, 1967.

29.211 Applicability of act to present establishments; fire prevention laws.

Sec. 11. The provisions of this act, except as to the payment of license and inspection fees, shall not be held to apply to any building, business, or establishment now in use so as to cause the same to be rebuilt, remodeled, or repaired, to conform to the provisions hereof. However, no rebuilding or remodeling of present buildings shall be permitted so as to defeat the purpose of this act. Nothing in this act shall be held to limit in any manner the laws which provide against fire hazards in this state.

HISTORY: CL 1948, 29.211.

29.212 Discontinuance or abandonment of dry cleaning business; defintion; time lapse.

Sec. 12. Should any building, business or establishment used in the operation of dry cleaning or dry dyeing be discontinued, or not carried on in any building which does not conform to the provisions herein set forth, for a period of 60 days, such business shall be considered as having been abandoned and before the same can be carried on again in such building the said building must be so rebuilt or reconstructed as to conform to the provisions of this act. The period of 60 days aforementioned, to be construed as such period when the plant is not operated for compensation or operated in its regular capacity as a going business.

HISTORY: CL 1948, 29.212.

CHAPTER III.

CLASSES OF INSTALLATION, EQUIPMENT AND CLEANING FLUIDS.

29.213 Dry cleaning systems; classes of installation.

Sec. 13. As a means of determining the class of installation into which a dry cleaning system may fall, the following schedule shall be employed:

Class I. Systems utilizing flammable solvents having flashpoint under 100 degrees F.

Class II. Systems utilizing flammable solvents having a flashpoint of 100 degrees F. or higher.

Class III. Systems employing equipment with automatic fire and explosion safeguards and which in any case shall employ tumblers or other drying devices which are so constructed as to control automatically the flow of air and temperature therein and by such control to operate under all conditions without formation of explosive or flammable vapor air atmosphere within the machines, and with provisions to flood automatically the interior thereof with saturated steam in the event of failure of the other automatic safeguards: Provided, That systems in this class shall utilize flammable solvents having a flash point of not less than 138.2 degrees F.

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Class IV. Systems utilizing solvents classified as non-flammable, or as non-flammable at ordinary temperatures and only slightly flammable at higher temperatures.

HISTORY: CL 1948, 29.213.

CLASS I.

Plants using flammable solvents having a flashpoint under 100° F.

Dry cleaning plants utilizing flammable solvents having a flashpoint under 100° F. shall be designated as Class I installations and shall comply with the following requirements:

29.214 Class I installations; location.

Sec. 14. Dry cleaning plants should preferably be located in outlying sparsely built sections. Buildings used for dry cleaning shall not be used for any other purpose. The dry cleaning buildings shall be not closer than 10 feet to the line of adjoining property, except when the exposing wall of the dry cleaning building is of standard brick or equivalent construction and without openings it may be located on the property line, but in no case shall more than 2 sides have blank walls.

HISTORY: CL 1948, 29.214.

29.215 Class I installations; height.

Sec. 15. Buildings shall be not over 1 story in height, without attics, concealed roof spaces, basements or pits.

HISTORY: CL 1948, 29.215.

29.216 Class I installations; construction materials, exits.

Sec. 16. Walls shall be brick, not less than 12 inches thick or equivalent construction. Wall finish shall be either plain or plastered without furring. Division walls between dry cleaning and other buildings shall be blank. Two exits shall be provided at least 50 per cent of longest dimension remote from each other and leading directly to the outside of the building. Wired glass for windows shall be in metal sash so hung that they will readily swing out in case of an explosion. Such sash shall not be secured while the plant is in operation. Glass area in walls shall be so located as to vent the force of any explosion in the direction or directions of least exposure.

HISTORY: CL 1948, 29.216.

29.217 Class I installations; floors.

Sec. 17. Floors shall not be below grade and shall have no pits, wells, pockets, or floor drains direct to sewers unless installed with approved type intercepters. The wearing surface shall be of a non-combustible material, preferably of non-sparking type.

HISTORY: CL 1948, 29.217.

29.218 Class I installations; roof.

Sec. 18. Roof shall be of flat type, of fire-resistive construction. If due to local conditions it is desirable to vent possible explosions upward, the roof shall be of light construction and of non-combustible material.

HISTORY: CL 1948, 29.218.

29.219 Class I installations; drying room.

Sec. 19. Drying should preferably be conducted in suitably protected drying cabinets or tumblers which may be located in the dry cleaning room, but where tumblers or cabinets are located in separate rooms of the cleaning plant such rooms shall be constructed with walls, partitions and ceilings of materials capable of furnishing 1 hour's resistance to fire, and have self-closing fire doors of equivalent construction. If dry rooms are used in lieu of cabinets or tumblers the dry rooms shall be of equivalent

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construction. If the drying room is a separate building, the building shall conform in all respects to the requirements for the dry cleaning building.
HISTORY: CL 1948, 29.219.

29.220 Class I installations; mechanical ventilation system.

Sec. 20. A mechanical system of ventilation shall be installed and be provided with means for remote control. Mechanical systems of ventilation shall have sufficient capacity to ensure complete and continuous change of air in dry cleaning rooms once every 5 minutes.
HISTORY: CL 1948, 29.220.

29.221 Class I installations; exhaust and ventilating fan motors.

Sec. 21. Exhaust and ventilation fan motors in ventilating systems shall be of the explosion proof type approved for hazardous locations.
HISTORY: CL 1948, 29.221.

29.222 Class I installations; exhaust fan blades.

Sec. 22. The spiders, blades, or all running rings of exhaust fans shall be of a nonferrous metal.
HISTORY: CL 1948, 29.222.

29.223 Class I installations; wiring, lighting and lighting fixtures.

Sec. 23. All wiring shall be of the explosion proof type, in rigid conduit installed and approved. Lighting shall be by electricity employing incandescent lights; lighting fixtures, portable lights, switches and other devices shall be of the explosion proof type approved for hazardous locations.
HISTORY: CL 1948, 29.223.

29.224 Class I installations; heating.

Sec. 24. Heating shall be by steam or hot water only. Steam and hot water pipes and radiators for heating and drying purposes shall be at least 1 inch from all woodwork and shall be protected by substantial metal screens arranged so as to prevent combustible goods or materials from coming in contact with such pipes and radiators.
HISTORY: CL 1948, 29.224.

29.225 Class I installations; electrical devices.

Sec. 25. Electric motors, motor controllers, overcurrent devices, switches and other electrical devices, if installed in dry cleaning rooms or other hazardous areas, shall be of the explosion proof type approved for hazardous locations.
HISTORY: CL 1948, 29.225.

29.226 Class I installations; boilers and boiler rooms.

Sec. 26. Boilers shall be located when possible in a detached building. When in a building or room adjoining cleaning rooms, the boiler building or room shall be cut off therefrom by an unpierced brick wall at least 8 inches thick, or equivalent; such walls to be vapor tight and constructed to provide a parapet above roof of at least 18 inches in height. All openings in boiler room shall be at least 10 feet from any opening into cleaning or drying areas.
HISTORY: CL 1948, 29.226.

29.227 Class I installations; solvent storage tanks.

Sec. 27. All solvent storage tanks shall be underground and installed and equipped in a manner as approved by flammable liquid code of the state of Michigan.
HISTORY: CL 1948, 29.227.

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29.228 Class I installations; measures for safeguarding aboveground tanks or purifiers.

Sec. 28. Above ground treatment tanks or purifiers shall be safeguarded as follows:

(a) Such containers shall not have an individual capacity in excess of 350 gallons.

(b) Containers shall be securely mounted on rigid incombustible supports.

(c) Containers shall be provided with not less than 1 ¼ inch vent pipes extending to the outside of the building. Such vents shall be protected by approved flame arresters.

(d) Containers shall be permanently and effectively grounded.

(e) Each above ground container shall be provided with an automatic heat-actuated emergency drain connection of ample capacity to discharge the entire contents to the underground storage tanks within a period of 5 minutes.

HISTORY: CL 1948, 29.228.

29.229 Class I installations; procedures for installation and operation of clarifiers; inspection.

Sec. 29. Clarifiers, when required, shall be installed and operated as follows:

(a) All overhead tanks used for supply purposes to clarifiers operating on the batch clarification system shall be limited to 350 gallons capacity; they shall be provided with automatic heat-actuated emergency drain connections to underground tanks; such connection shall be of sufficient capacity to empty the overhead tank in 5 minutes.

(b) Clarifiers installed on the continuous system of clarification shall be located as close as possible to the washing machines with which they are connected.

(c) In no case shall clarifiers be run at a speed in excess of that prescribed by the manufacturer. This speed shall be given in revolutions per minute and shall be marked on name plate of machine. Steam-driven clarifiers shall be equipped with approved governors.

(d) All sight glasses used in conjunction with clarifiers in the continuous system, the breakage of which would permit the escape of flammable liquids, shall be of a type not readily damaged by heat and shall be reliably protected against mechanical injury.

(e) Pumps used in conjunction with clarifiers on the continuous system of clarification shall be properly designated and substantially constructed, and when of the piston, rotary or gear type shall be fitted with a relief valve and by-pass set so as to prevent excessive pressure.

(f) There shall be provided at suitable points in the pipe lines of all continuous systems, a quick-acting valve for completely emptying all pipes and traps in the system to the underground tanks.

(g) All clarifiers shall be periodically inspected and repairs made if necessary.

HISTORY: CL 1948, 29.229.

29.230 Class I installations; general apparatus requirements.

Sec. 30. All apparatus of this class shall be in accordance with the following general requirements:

(a) Apparatus shall be as approved by the state fire marshal.

(b) Apparatus shall be installed and connected in a manner approved by the state fire marshal.

(c) All washers, extractors, treating tanks, clarifiers, separators and stills shall be liquid tight.

(d) The handling of solvents from the storage tanks, through the various machines and back to the settling and clear solvent tanks shall be through closed circuits of piping.

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(e) Gauge glasses, and look boxes or windows, the breakage of which would permit the escape of flammable liquids, shall be of a type not readily damaged by heat and shall be reliably protected against mechanical injury.

(f) A separate suction and discharge connection shall be provided to the pump for removal of sludge from the underground treating and settling tanks. The suction pipe shall be carried to the tank bottom and the discharge connection to a catch basin.

(g) All piping shall be tested to a pressure of at least 50 pounds and proved tight and otherwise protected against mechanical injury.

(h) Individual button and lint traps shall be provided for each washer.

HISTORY: CL 1948, 29.230.

29.231 Class I installations; washing machines.

Sec. 31. Washing machines, in addition to complying with the preceding general requirements (section 34), shall be in accordance with the following:

(a) The cylinders and shells of all washing machines shall be permanently and effectively grounded. The grounding of the cylinder in each case shall be through the end of the shaft and across the surface of the cylinder.

(b) Each washing machine shall be provided with an overflow pipe 1 size larger than the size of the solvent supply line to the machine. Such overflow pipe shall be connected to the shell of the washer so that the top of the overflow is below the bottom of the bearings, shall be without shutoff valves, and shall be arranged to discharge to an underground tank.

(c) Washing machines shall be of substantial construction and provided with splash-proof doors of the outside case hinge type arranged to be self-closing or automatic-closing.

(d) Washing machines to be securely attached to the floor.

(e) The supply pipes to washing machines whether from pumps, filters, clarifiers or storage tanks shall enter the washing machines above the charged liquid level where the top of such apparatus or container is above the charged liquid level.

HISTORY: CL 1948, 29.231.

29.232 Class I installations; stills and condensers.

Sec. 32. Stills and condensers, in addition to complying with the preceding general requirements (section 34), shall be in accordance with the following:

(a) Stills, condensers and treating tanks shall be of substantial construction, mounted on substantial fire-resistive foundation or framework and shall be of a type which will not expose the liquid during any part of the process of reclamation. Steam or hot water only shall be used to secure the necessary temperature. Stills and condensers shall be liquid and gas tight.

(b) Each still shall be equipped with a vacuum relief valve arranged to discharge outside the building. Relief valves shall be not less than 1 ½ inches of mercury. When a shut-off valve is installed between still and condenser the relief valve shall be located on the still side of shut-off valve. A check valve shall be installed in the steam line between the boiler and the still.

(c) Each still shall be provided with an automatic heat-actuated emergency drain connection of ample capacity to discharge entire contents to underground storage tanks within a period of 5 minutes.

HISTORY: CL 1948, 29.232.

29.233 Class I installations; drying tumblers.

Sec. 33. Drying tumblers, in addition to complying with the preceding general requirements (section 34), shall be in accordance with the following:

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(a) Drying tumblers shall be of substantial construction, well secured to substantial foundations, shall be vapor tight, and shall be provided with self-closing explosion hatches.

(b) The cylinder and shell of all drying tumblers shall be permanently and effectively grounded. The grounding of the cylinder in each case shall be through the end of the shaft.

(c) Drying tumblers shall be provided with a steam jet, of not less than 3/8 inch size for steaming during the drying process.

(d) Drying tumblers shall be ventilated to the outside air by means of properly constructed pipes and ducts connected to an exhaust fan of sufficient capacity to remove all dust, vapors, or fibres generated by the process. Such discharge pipes shall be carried to a height above the roof meeting the approval of the state fire marshal and shall be provided with clean-out facilities.

(e) Discharge pipes shall not terminate within 10 feet measured horizontally from any door, window or frame wall of any adjoining or adjacent building.

(f) The fan shall be properly housed and so interlocked as to ensure operation while the drying tumbler is in use.

HISTORY: CL 1948, 29.233.

29.234 Class I installations; extractors.

Sec. 34. Extractors, in addition to complying with the preceding general requirements (section 34), shall be in accordance with the following:

(a) Extractors shall be of substantial design and construction and securely attached to rigid incombustible supports.

(b) The baskets shall have a rim of non-ferrous metal and shall be well balanced.

(c) Extractors shall be provided with a cover of non-ferrous metal or brass screen held in a substantial frame.

(d) Extractors shall be provided with a drain pipe not less than 1 ½ inches in diameter connected direct to underground storage tanks or to the washer through an approved extractor pump with connections fitted with proper valves.

(e) The outside shell of extractors shall be permanently and effectively grounded.

(f) Brakes, if used, shall be so designed as to prevent the striking of sparks or developing of excessive heat.

HISTORY: CL 1948, 29.234.

29.235 Class I installations; scouring or brushing tables, scrubbing tubs.

Sec. 35. Articles, the character of which prevents their washing in the usual washing machines, may be cleaned on scouring or brushing tables or in approved scrubbing tubs provided the total amount of solvent used in such open containers shall not exceed 3 gallons. Solvents for this purpose shall be used from approved safety cans and returned to settling tanks as soon as the operation is completed. Scrubbing tubs shall be secured to the floor and shall be provided with permanent 1 ½ inch trapped drains to underground tanks, or to approved containers where underground tank is not available.

HISTORY: CL 1948, 29.235.

29.236 Class I installations; scouring or brushing operations.

Sec. 36. All scouring or brushing operations shall be carried on in the dry cleaning room or in a separate fire-resistive compartment with wall openings to the outside only.

HISTORY: CL 1948, 29.236.

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29.237 Class I installations; location of scouring or brushing tables, scrubbing tubs.

Sec. 37. The scouring or brushing table or scrubbing tub shall be so located as to ensure thorough and effective disposal of vapors through the ventilating system.

HISTORY: CL 1948, 29.237.

29.238 Class I installations; scouring or brushing table requirements.

Sec. 38. The scouring or brushing table shall have a liquid-tight top with a curb on all sides not less than 1 inch high. The top of the table shall be so pitched as to ensure thorough draining to approved container or to a 1 ½ inch drain connection with liquid seal trap direct to underground tank. Metal tops where used shall be liquid tight and permanently and effectively grounded. The table shall be secured to the floor or wall so as not to disturb the grounding and drain connections.

HISTORY: CL 1948, 29.238.

29.239 Class I installations; flammable solvents for spotting.

Sec. 39. Flammable solvents used in connection with spotting operations shall be limited to 1 gallon and dispensed from approved safety cans. Storage shall be in approved safety cans or sealed containers of not over 1 gallon capacity, and in amount approved by the state fire marshal.

HISTORY: CL 1948, 29.239.

29.240 Class I installations; instructing employees as to work hazards.

Sec. 40. All employees shall be thoroughly instructed as to the hazards involved in their departments and in the work which they perform.

HISTORY: CL 1948, 29.240.

29.241 Class I installations; searching clothes for foreign materials.

Sec. 41. All clothes, when received at the plant, shall be thoroughly searched in the receiving room and all foreign materials, especially matches and metallic substances, removed.

HISTORY: CL 1948, 29.241.

29.242 Class I installations; drip apron.

Sec. 42. Before removing the batch of clothes from a washer a non-ferrous metal drip apron shall be placed so as to rest on the metal basket of the truck and the cylinder of the washer.

HISTORY: CL 1948, 29.242.

29.243 Class I installations; flammable liquids for cleaning floors prohibited.

Sec. 43. Flammable liquids shall not be used for cleaning floors.

HISTORY: CL 1948, 29.243.

29.244 Class I installations; smoking prohibited, posting signs.

Sec. 44. Smoking in cleaning plant or other areas classified as hazardous shall be strictly prohibited and "No Smoking" signs shall be posted.

HISTORY: CL 1948, 29.244.

29.245 Class I installations; removal of lint and refuse from traps; draining solvents from containers.

Sec. 45. (a) The lint and refuse shall be removed from all traps after the close of the day's work, deposited in approved waste cans, removed from the premises and safely disposed of. At all other times the trap covers shall be kept securely in place.

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(b) All above ground containers such as washing machines, tanks, purifiers, clarifiers, stills and condensers shall be drained of all solvents immediately after the close of each day.

HISTORY: CL 1948, 29.245.

29.246 Class I installations; fire, ventilating system to be closed, inspection and test of extinguishing system.

Sec. 46. (a) On the discovery of fire the ventilating system shall be shut down immediately.

(b) In order that reliable operation of the steam or other extinguishing system may be ensured, periodic inspections of all valves and piping shall be made. Steam lines shall also be subjected to test.

HISTORY: CL 1948, 29.246.

29.247 Class I installations; asbestos blankets, boat hook, handle.

Sec. 47. An asbestos blanket not less than 7 x 7 feet and a boat hook with a handle at least 6 feet long, shall be provided for each dry cleaning room, kept on a convenient rack at the principal entrance. Where the size or arrangements of the room is such as to require a travel of more than 50 feet from any point in the room to reach the principal entrance, additional asbestos blankets and boat hooks shall be provided as directed by the state fire marshal.

HISTORY: CL 1948, 29.247.

29.248 Class I installations; oil fire extinguishing devices for flammable liquids.

Sec. 48. Approved extinguishing devices of a type suitable for use on an oil fire shall be provided for every room or area where flammable liquids are stored or used. These may be hand extinguishers, and, if necessary, wheeled extinguishers, depending upon the size of the plant. Extinguishers shall be of types installed and maintained in a manner approved by the state fire marshal. In no case shall there be less than 1 extinguisher at each entrance of every room or area where flammable liquids are stored or used.

HISTORY: CL 1948, 29.248.

29.249 Class I installations; fire extinguishing systems in dry cleaning and drying rooms.

Sec. 49. Each dry cleaning room and drying room shall be equipped with an approved extinguishing system, of 1 of the following types:

(a) An automatic sprinkler system installed in accordance with the standards set forth by the state fire marshal.

(b) A carbon dioxide room flooding system installed in accordance with the standards set forth by the state fire marshal.

(c) A steam smothering system, manually controlled by means of a quick opening valve from a conveniently accessible point outside the room protected with continuously available steam supply at a pressure of at least 15 pounds per square inch and discharge piping and outlets sufficient to deliver 8 pounds of steam per minute per 100 cubic feet of volume of space protected.

HISTORY: CL 1948, 29.249.

29.250 Class I installations; fire extinguishing equipment for washing machines.

Sec. 50. Each washing machine shall be provided with approved extinguishing equipment, arranged to operate automatically or by remote control, consisting of a carbon dioxide system in accordance with the standards for carbon dioxide fire extinguishing systems as approved by the state fire marshal; or a steam jet not less than 3/4

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inch with a continuously available steam supply at a pressure of not less than 15 pounds per square inch.
HISTORY: CL 1948, 29.250.

29.251 Class I installations; fire extinguishing equipment for drying tumblers.

Sec. 51. Each drying tumbler shall be provided with approved extinguishing equipment, arranged to operate automatically and by remote control, consisting of a carbon dioxide or steam jet system as specified in preceding section 50.
HISTORY: CL 1948, 29.251.

CLASS II.

Systems using flammable solvents with flashpoint over 100° F.

Systems utilizing flammable solvents having a flashpoint of 100° F. or higher, but which do not comply with class III or class IV requirements shall be designated as class II installations, and shall comply with the following requirements.

29.252 Class II installations; location.

Sec. 52. Dry cleaning plants shall be not closer than 10 feet to the line of adjoining property, unless the exposing wall of the plant is of blank masonry construction.
HISTORY: CL 1948, 29.252.

29.253 Class II installations; other occupancies in same building prohibited.

Sec. 53. Dry cleaning operations in no event shall be carried on in the same building with other occupancies. Operations incidental to or in connection with the dry cleaning business, such as sales of cleaning service, scouring, scrubbing, drying, pressing, ironing, etc., shall not class as "other occupancies," for the purpose of this act.
HISTORY: CL 1948, 29.253.

29.254 Class II installations; restriction of operations to ground floor.

Sec. 54. The location of dry cleaning systems shall be restricted to the lowest floor of a building, but shall not be located on any floor below grade.
HISTORY: CL 1948, 29.254.

29.255 Class II installations; walls and windows.

Sec. 55. Walls shall be of at least 8 inches masonry construction. Interior wall finish shall be plain or plastered without furring or concealed spaces. Windows of cleaning and/or drying areas shall be of metal sash and wired glass.
HISTORY: CL 1948, 29.255.

29.256 Class II installations; floors.

Sec. 56. Floors of dry cleaning sections shall be of non-combustible construction and shall have no pits, holes, pockets, or floor drains direct to sewer unless with approved type intercepters. The wearing surface shall be of non-combustible material and where located over a basement, floor shall be vapor and liquid-tight.
HISTORY: CL 1948, 29.256.

29.257 Class II installations; roofs, floors above ground, ceilings, doorways, sills or ramps.

Sec. 57. (a) Roof and floors above grade floor shall be of fire-resistive or incombustible construction. The ceilings over the dry cleaning areas shall be protected by cement or gypsum plaster on metal lath or equivalent construction having a 1 hour's fire resistance classification.

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(b) Doorways from cleaning and/or drying areas shall be provided with approved automatic or self-closing fire doors with masonry sill or ramp beneath. The sill or ramp shall be of sufficient height to retain all solvents contained in the equipment within the room but, in no instance, shall be less than 3 inches in height.

HISTORY: CL 1948, 29.257.

29.258 Class II installations; separation of dry cleaning plant from incidental operations.

Sec. 58. Where incidental operations, such as permitted under section 53, are located on the same floor with dry cleaning plants, the dry cleaning operations shall be cut off therefrom by an 8 inch masonry wall, with connection walls equipped with automatic fire doors, and masonry sill of sufficient height to retain fluids but minimum of 3 inches.

HISTORY: CL 1948, 29.258.

29.259 Class II installations; drying tumblers, cabinets or rooms.

Sec. 59. Drying shall preferably be conducted in suitably protected drying cabinets or tumblers which may be located in the dry cleaning room, but where tumblers or cabinets are located in separate rooms in the cleaning plant, such rooms shall be constructed with walls, partitions and ceilings of material capable of furnishing 1 hour's resistance to fire, and having self-closing fire doors of equivalent construction. If dry rooms are used in lieu of cabinets or tumblers, the dry rooms shall be built of construction equivalent to that of the dry cleaning plant. If the drying or dry room is in a separate building, the building shall conform in all respects to the requirements for the dry cleaning building.

HISTORY: CL 1948, 29.259.

29.260 Class II installations; ventilation for cleaning and drying areas.

Sec. 60. Ventilation for cleaning and/or drying areas may be that furnished with the equipment if found to be adequate. Otherwise, independent mechanical ventilation shall be furnished which will afford a minimum of 12 air changes per hour.

HISTORY: CL 1948, 29.260.

29.261 Class II installations; exhaust and ventilating fan motors.

Sec. 61. Exhaust and ventilating fan motors in ventilation systems shall be of a type approved for hazardous locations.

HISTORY: CL 1948, 29.261.

29.262 Class II installations; exhaust fan blades.

Sec. 62. Spiders, blades or all running rings of exhaust fans shall be of non-ferrous and non-combustible metal.

HISTORY: CL 1948, 29.262.

29.263 Class II installations; wiring, lighting and lighting fixtures.

Sec. 63. Lighting shall be in accordance with the approved requirements. All electric wiring in dry cleaning rooms or other sections subject to flammable vapors shall be installed in accordance with approved requirements for hazardous locations, and all lighting fixtures, portable lights, switches and other electrical devices of the approved type.

HISTORY: CL 1948, 29.263.

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29.264 Class II installations; heating, piping.

Sec. 64. Heating in the dry cleaning and/or drying room shall be by steam or hot water only. Steam and hot water pipes and radiators for heating and drying purposes shall be at least 1 inch from all woodwork and shall be protected by substantial metal screens arranged so as to prevent combustible goods or materials from coming in contact with such pipes and radiators.

HISTORY: CL 1948, 29.264.

29.265 Class II installations; electrical devices.

Sec. 65. Electric motors, motor controllers, overcurrent devices, switches and other electrical devices, if installed in dry cleaning rooms or other hazardous areas, shall be of the type approved for hazardous locations.

HISTORY: CL 1948, 29.265.

29.266 Class II installations; boilers and boiler rooms.

Sec. 66. Boilers shall be located when possible in a detached building. When in a building or room adjoining cleaning rooms, the boiler building or room shall be cut off therefrom by an unpierced brick wall at least 8 inches thick, or equivalent; such walls to be vapor tight and constructed to provide a parapet above roof of at least 18 inches in height. All openings in boiler room shall be at least 10 feet from any opening into cleaning or drying areas.

HISTORY: CL 1948, 29.266.

29.267 Class II installations; solvent storage tanks.

Sec. 67. All solvent storage tanks shall be underground and installed and equipped in a manner as approved by the flammable liquid code of the state of Michigan.

HISTORY: CL 1948, 29.267.

29.268 Class II installations; measures for safeguarding aboveground tanks or purifiers.

Sec. 68. Aboveground treatment tanks or purifiers shall be safeguarded as follows:

(a) Such containers shall not have an individual capacity in excess of 1,000 gallons.

(b) Containers shall be securely mounted on rigid incombustible supports.

(c) Containers shall be provided with not less than 1 ¼ inch vent pipes extending to the outside of the building. Such vents shall be protected by approved flame arresters.

(d) Containers shall be permanently and effectively grounded.

(e) Each aboveground container shall be provided with an automatic heat-actuated emergency drain connection of ample capacity to discharge the entire contents to the underground storage tanks within a period of 5 minutes, where there are such underground storage tanks.

HISTORY: CL 1948, 29.268.

29.269 Class II installations; procedures for installation and operation of clarifiers; inspection.

Sec. 69. Clarifiers, when required, shall be installed and operated as follows:

(a) All overhead tanks used for supply purposes to clarifiers operating on the batch clarification system shall be limited to 1,000 gallons capacity; they shall be provided with automatic heat-actuated emergency drain connections to underground tanks; such connections shall be of sufficient capacity to empty the overhead tank in 5 minutes, where there are such underground storage tanks.

(b) Clarifiers installed on the continuous system of clarification shall be located as close as possible to the washing machines with which they are connected.

(c) In no case shall clarifiers be run at a speed in excess of that prescribed by the manufacturer. This speed shall be given in revolutions per minute and shall be marked

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on name plate of machine. Steam-driven clarifiers shall be equipped with approved governors.

(d) All sight glasses used in conjunction with clarifiers in the continuous system, the breakage of which would permit the escape of flammable liquids, shall be of a type not readily damaged by heat and shall be reliably protected against mechanical injury.

(e) Pumps used in conjunction with clarifiers on the continuous system of clarification shall be properly designed and substantially constructed, and when of the piston, rotary or gear type shall be fitted with a relief valve and by-pass set so as to prevent excessive pressure.

(f) There shall be provided at suitable points in the pipe lines of all continuous systems, a quick-acting valve for completely emptying all pipes and traps in the system to the underground tanks when the tanks are present.

(g) All clarifiers shall be periodically inspected and repairs made if necessary.
HISTORY: CL 1948, 29.269.

29.270 Class II installations; apparatus requirements.

Sec. 70. All apparatus of this class shall be in accordance with the following general requirements:

(a) Apparatus shall be approved by the state fire marshal.

(b) Apparatus shall be installed and connected in a manner approved by the state fire marshal.

(c) All washers, extractors, treating tanks, clarifiers, separators and stills shall be liquid-tight.

(d) The handling of solvents from the storage tanks, through the various machines and back to the settling and clear solvent tanks shall be through closed circuits of piping.

(e) Gauge glasses, and look boxes or windows, the breakage of which would permit the escape of flammable liquids, shall be of a type not readily damaged by heat and shall be reliably protected against mechanical injury.

(f) A separate suction and discharge connection shall be provided to the pump for removal of sludge from the underground treating and settling tanks. The suction pipe shall be carried to the tank bottom and the discharge connection to a catch basin.

(g) All piping shall be tested to a pressure of at least 50 pounds and proved tight and otherwise protected against mechanical injury.

(h) Individual button and lint traps shall be provided for each washer.
HISTORY: CL 1948, 29.270.

29.271 Class II installations; washing machines.

Sec. 71. Washing machines, in addition to complying with the preceding general requirements (section 70), shall be in accordance with the following:

(a) The cylinders and shells of all washing machines shall be permanently and effectively grounded. The grounding of the cylinder in each case shall be through the end of the shaft and across the surface of the cylinder.

(b) Each washing machine shall be provided with an overflow pipe 1 size larger than the size of the solvent supply line to the machine. Such overflow pipe shall be connected to the shell of the washer so that the top of the overflow is below the bottom of the bearings, shall be without shut-off valves, and shall be arranged to discharge to an underground tank, where underground tanks are present.

(c) Washing machines shall be of substantial construction and provided with splashproof doors of the outside case hinge type arranged to be self-closing or automatic-closing.

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(d) Washing machines to be securely attached to the floor.

(e) The supply pipes to washing machines whether from pumps, filters, clarifiers or storage tanks shall enter the washing machines above the charged liquid level where the top of such apparatus or container is above the charged liquid level.

HISTORY: CL 1948, 29.271.

29.272 Class II installations; stills and condensers.

Sec. 72. Stills and condensers, in addition to complying with the preceding general requirements (section 70), shall be in accordance with the following:

(a) Stills, condensers and treating tanks shall be of substantial construction, mounted on substantial fire-resistive foundation or framework and shall be of a type which will not expose the liquid during any part of the process of reclamation. Steam or hot water only shall be used to secure the necessary temperature. Stills and condensers shall be liquid-tight and gas-tight.

HISTORY: CL 1948, 29.272.

29.273 Class II installations; drying tumblers.

Sec. 73. Drying tumblers, in addition to complying with the preceding general requirements (section 70), shall be in accordance with the following:

(a) Drying tumblers shall be of substantial construction, well secured to substantial foundations, shall be vapor-tight, and shall be provided with self-closing explosion hatches. Hatches shall be arranged to open away from the operator.

(b) The cylinder and shell of all drying tumblers shall be permanently and effectively grounded. The grounding of the cylinder in each case shall be through the end of the shaft.

(c) Drying tumblers shall be provided with a steam jet, of not less than 3/8 inch size, for steaming during the drying process.

(d) Drying tumblers shall be ventilated to the outside air by means of properly constructed pipes and ducts connected to an exhaust fan of sufficient capacity to remove all dust, vapors, or fibres generated by the process. Such discharge pipes shall be carried to a height of not less than 6 feet above the roof meeting the approval of the state fire marshal and shall be provided with clean-out facilities.

(e) Discharge pipes shall not terminate within 10 feet measured horizontally from any door, window or frame wall of any adjoining or adjacent building.

(f) The fan shall be properly housed and so interlocked as to ensure operation while the drying tumbler is in use. Fan blades shall be of non-ferrous and non-combustible material.

HISTORY: CL 1948, 29.273.

29.274 Class II installations; extractors.

Sec. 74. Extractors, in addition to complying with the preceding general requirements (section 70), shall be in accordance with the following:

(a) Extractors shall be of substantial design and construction and securely attached to rigid incombustible supports.

(b) The baskets shall have a rim of non-ferrous metal and shall be well balanced.

(c) Extractors shall be provided with a cover of non-ferrous metal or brass screen held in a substantial frame.

(d) Extractors shall be provided with a drain pipe not less than 1½ inches or to the washer through an approved extractor pump with connections fitted with proper valves.

(e) The outside shell of extractors shall be permanently and effectively grounded.

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(f) Brakes, if used, shall be so designed as to prevent the striking of sparks or developing of excessive heat.

HISTORY: CL 1948, 29.274.

29.275 Class II installations; scouring or brushing tables or scrubbing tubs.

Sec. 75. Articles, the character of which prevents their washing in the usual washing machines, may be cleaned on scouring or brushing tables or in approved scrubbing tubs provided the total amount of solvent used in such open containers shall not exceed 3 gallons. Solvents for this purpose shall be used from approved safety cans and returned to settling tanks as soon as the operation is completed. Scrubbing tubs shall be secured to the floor and shall be provided with permanent 1 ½ inch trapped drains to underground tanks, or to approved containers where underground tank is not available.

HISTORY: CL 1948, 29.275.

29.276 Class II installations; scouring or brushing operations.

Sec. 76. All scouring or brushing operations shall be carried on in the dry cleaning room or in a separate fire-resistive compartment with wall openings to the outside only.

HISTORY: CL 1948, 29.276.

29.277 Class II installations; location of scouring or brushing tables, scrubbing tubs.

Sec. 77. The scouring or brushing table or scrubbing tub shall be so located as to ensure thorough and effective disposal of vapors through the ventilating system.

HISTORY: CL 1948, 29.277.

29.278 Class II installations; scouring or brushing table requirements.

Sec. 78. The scouring or brushing table shall have a liquid-tight top with a curb on all sides not less than 1 inch high. The top of the table shall be so pitched as to ensure thorough draining to approved container or to a 1 ½ inch drain connection with liquid seal trap direct to underground tank. Metal tops where used shall be liquid-tight and permanently and effectively grounded. The table shall be secured to the floor or wall so as not to disturb the grounding and drain connections.

HISTORY: CL 1948, 29.278.

29.279 Class II installations; flammable solvents for spotting.

Sec. 79. Flammable solvents used in connection with spotting operations shall be limited to 1 gallon and dispensed from approved safety cans. Storage shall be in approved safety cans or sealed containers of not over 1 gallon capacity, and in amount approved by the state fire marshal.

HISTORY: CL 1948, 29.279.

29.280 Class II installations; instructing employees as to work hazards.

Sec. 80. All employees shall be thoroughly instructed as to the hazards involved in their departments and in the work which they perform.

HISTORY: CL 1948, 29.280.

29.281 Class II installations; searching clothes for foreign materials.

Sec. 81. All clothes, when received at the plant, shall be thoroughly searched in the receiving room and all foreign materials, especially matches and metallic substances, removed.

HISTORY: CL 1948, 29.281.

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29.282 Class II installations; draining solvent from clothing.

Sec. 82. In removing the batch of clothes from a washer excess solvents shall be drained from the clothing so as to prevent the spilling of solvent on the floor.

HISTORY: CL 1948, 29.282.

29.283 Class II installations; smoking prohibited, posting signs.

Sec. 83. Smoking in cleaning plant or other areas classified as hazardous shall be strictly prohibited and "No Smoking" signs shall be posted.

HISTORY: CL 1948, 29.283.

29.284 Class II installations; removal of lint and refuse from traps.

Sec. 84. The lint and refuse shall be removed from all traps after the close of the day's work, deposited in approved waste cans, removed from the premises and safely disposed of. At all other times the trap covers shall be kept securely in place.

HISTORY: CL 1948, 29.284.

29.285 Class II installations; fire, ventilating system to be closed, inspection and test of extinguishing equipment.

Sec. 85. (a) On the discovery of fire the ventilating system shall be shut down immediately.

(b) In order that reliable operation of the steam or other extinguishing system may be ensured, periodic inspections of all valves and piping shall be made. Steam lines shall also be subjected to test.

HISTORY: CL 1948, 29.285.

29.286 Class II installations; drainage sludge deposits.

Sec. 86. So far as feasible sludge deposits formed in treating tanks, stills or any other receptacle shall be free from volatile flammable liquids before being drawn from their containers.

HISTORY: CL 1948, 29.286.

29.287 Class II installations; oil fire extinguishing devices for flammable liquids.

Sec. 87. Approved extinguishing devices of a type suitable for use on oil fires shall be provided for every room or area where flammable liquids are stored or used.

HISTORY: CL 1948, 29.287.

29.288 Class II installations; requirements of fire extinguishers.

Sec. 88. These may be hand extinguishers, and, if necessary, wheeled extinguishers, depending upon the size of the plant. Extinguishers shall be of type installed and maintained in a manner approved by the state fire marshal. In no case shall there be less than 1 extinguisher at each entrance of every room or area where flammable liquids are stored or used.

HISTORY: CL 1948, 29.288.

29.289 Class II installations; fire extinguishing equipment for washing machines.

Sec. 89. Each washing machine shall be provided with approved extinguishing equipment, arranged to operate automatically or by remote control, consisting of a carbon dioxide system in accordance with the standards for carbon dioxide fire extinguishing systems as approved, or a steam jet not less than 3/4 inch with a continuously available steam supply at a pressure of not less than 15 pounds per square inch.

HISTORY: CL 1948, 29.289.

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29.290 Class II installations; fire extinguishing equipment for drying tumblers.

Sec. 90. Each drying tumbler shall be provided with approved extinguishing equipment, arranged to operate automatically and by remote control, consisting of a carbon dioxide or steam jet system as specified in section 89.

HISTORY: CL 1948, 29.290.

CLASS III.

Certain systems using flammable solvents with flashpoint over 138.2° F.; specifications.

Systems equipped with automatic fire and explosion safeguards and which, in any case shall employ tumblers or other drying devices which are so constructed as to control automatically the flow of air and temperature therein and by such control to operate under all conditions without formation of explosive or flammable vapor air atmosphere within the machines, and with provisions to flood automatically the interior thereof with saturated steam in the event of failure of the other automatic safeguards: Provided, That systems in this class shall utilize flammable solvents having a flashpoint of not less than 138.2° F.

Following are minimum specifications of flammable solvent which shall be used in class III operations:

Flashpoint (closed cup)	Not lower than 59° C. (138.2° F.)
Initial boiling point	Not lower than 181° C. (357.8° F.)
Ignition temperature	Not lower than 234° C. (453.2° F.)
Power limit of explosive range	Not less than 0.8 per cent by volume in air at an initial temperature of 150° C. (302° F.)
Spontaneous heating	The cleaning solvent shall not heat spontaneously.

Note 1. Dry cleaning systems of this class are suitable for use only with cleaning liquids specified above. Safety of operation may be endangered if cleaning liquids other than those specified are used or if equipment not tested and listed for use with the specified liquids is employed.

Note 2. Systems employing solvents conforming with the above specifications but not provided with approved equipment as defined above, shall automatically fall in class II for the purpose of this act.

29.291 Class III installations; location, requirements in unsprinklered buildings with other occupancies.

Sec. 91. (a) The requirements of this section are based upon locations in unsprinklered buildings with other occupancies.

(b) In cases where dry cleaning plants of this class are located in the same building with other occupancies, such plants shall be cut off therefrom vertically and horizontally by construction providing 1 hour's resistance to fire. For the purpose of this section, operations incidental to or in connection with the dry cleaning business such as sales of cleaning service, laundering, scouring, scrubbing, drying, pressing, ironing, etc., shall not class as "other occupancies," unless ordered to do so by the state fire marshal.

(c) No such dry cleaning system shall be located in any dwelling or place of public assembly.

HISTORY: CL 1948, 29.291.

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29.292 Class III installations; lighting, power and wiring.

Sec. 92. All lighting, power and wiring shall be approved.

HISTORY: CL 1948, 29.292.

29.293 Class III installations; boilers and boiler rooms.

Sec. 93. Boilers shall be located when possible in a detached building. When in a building or room adjoining cleaning rooms, the boiler building or room shall be cut off therefrom by an unpierced brick wall at least 8 inches thick, or equivalent, such walls to be vapor tight and constructed to provide a parapet above roof of at least 18 inches in height. All openings in boiler room shall be at least 10 feet from any opening into cleaning or drying areas.

HISTORY: CL 1948, 29.293.

29.294 Class III installations; capacity and location of solvent storage tanks.

Sec. 94. The total capacity of aboveground inside solvent storage tanks, including solvent treatment tanks, shall not exceed 550 gallons: Provided, That the individual capacity of any 1 such tank shall not exceed 275 gallons. Where storage capacity in excess of this quantity is desired, that in excess of 550 gallons shall be in approved containers installed underground, or in enclosures or casings in a manner approved by the flammable liquids code of the state of Michigan.

HISTORY: CL 1948, 29.294.

29.295 Class III installations; operating solvent capacity.

Sec. 95. The total operating solvent capacity of the system, excluding storage tanks, shall not exceed 550 gallons.

HISTORY: CL 1948, 29.295.

29.296 Class III installations; apparatus requirements.

Sec. 96. All apparatus of this class shall be in accordance with the following general requirements:

(a) Apparatus shall be installed and connected in manner as set forth by the state fire marshal.

(b) Apparatus shall be of substantial construction and shall be securely mounted on rigid incombustible supports.

(c) The handling of solvents from the storage tank, through the various machines and back to the settling and clean solvents tanks, shall be through closed circuits of piping.

(d) All liquid-handling parts such as tanks, washers, extractors, filters, button traps, moisture separators, and stills shall be liquid-tight.

(e) Gauge glasses and look boxes or windows shall be of a type not readily damaged by heat and shall be reliably protected from breakage and mechanical injury.

(f) Solvent storage tanks and extractor drain tanks shall be provided with not less than a 1 ¼ inch pipe size vent pipe extending to the outside of the building.

(g) The cylinders and shells of all washing machines and drying tumblers and all aboveground containers shall be permanently and effectively grounded. The grounding of the cylinder in each case shall be through the end of the shaft and across the surface of the cylinder. The walls of drying cabinets and the outside shell of extractors shall be permanently and effectively grounded.

(h) All pumps handling solvent shall be devices approved for use with hazardous liquids, and when of the piston, rotary, or gear type, shall be fitted with a relief valve and by-pass set so as to prevent excessive pressures.

(i) When underground treating and settling tanks are used, a separate suction and

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discharge connection shall be provided to the pump. The suction pipe shall be carried to the tank bottom and the discharge connection to a catch basin.

HISTORY: CL 1948, 29.296.

29.297 Class III installations; aboveground storage tanks.

Sec. 97. Aboveground storage tanks, in addition to complying with the preceding general requirement (section 96), shall be in accordance with the following:

(a) Solvent containers such as clean solvent tank, dirty solvent tank, extractor drain tank, filter, etc., shall have an individual capacity not in excess of 350 gallons.

(b) Each aboveground storage tank, extractor, drain tank and still shall be provided with a liquid level gauge, preferably of the approved magnetically operated float type. If it is impractical to use a float type gauge, sight glasses may be used, but they shall be of a type not readily damaged by heat and shall be reliably protected from breakage and mechanical injury.

(c) Tanks shall be located as close as possible to the washing machines with which they are connected.

HISTORY: CL 1948, 29.297.

29.298 Class III installations; washing machines.

Sec. 98. Washing machines, in addition to complying with the preceding general requirements (section 96), shall be in accordance with the following:

(a) They shall be provided with splash-proof doors of the case hinge type.

(b) Each washing machine shall be provided with an overflow pipe 1 pipe size larger than the size of the solvent supply line of the washer. Such overflow shall be connected to the shell of the washer so that the top of the overflow is below the bottom of the bearings, shall be without shut-off valves, and shall be arranged to discharge to an underground tank or to an approved aboveground container. Such aboveground container shall be emptied at the end of each day's work and oftener if necessary.

(c) The supply pipe shall enter the washing machine above the charged liquid level.

(d) Each washer shall be provided with a substantially constructed button and lint trap to prevent foreign matter from entering tanks or pumps. Button and lint traps shall be equipped with suitable lids.

HISTORY: CL 1948, 29.298.

29.299 Class III installations; filters and clarifiers.

Sec. 99. Filters and clarifiers, in addition to complying with the preceding general requirements (section 96), shall be in accordance with the following:

(a) Clarifiers installed on the continuous system of clarification shall be located as close as possible to the washing machines with which they are connected.

(b) In no case shall clarifiers be run at a speed in excess of that prescribed by the manufacturer. This speed shall be given in revolutions per minute and shall be marked on the name plate of the machine.

(c) All pressure filters shall be equipped with a reliable pressure gauge.

(d) Pressure filters shall not be operated at pressure in excess of that recommended by the manufacturer.

(e) Air vents from pressure filters preferably shall be connected so as to discharge into the washer or to the storage tank vent pipe, but in no event shall they discharge into the room.

HISTORY: CL 1948, 29.299.

29.300 Class III installations; extractors.

Sec. 100. Extractors, in addition to complying with the preceding general requirements (section 96), shall be in accordance with the following:

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(a) The baskets shall have a rim of non-ferrous metal and shall be well balanced.

(b) Extractors shall be provided preferably with liquid-tight covers, or they shall be designed so that none of the liquid solvents is thrown out of the extractor while it is in operation. Covers shall be equipped with automatic mechanical or electrical interlocks which will prohibit operating the extractors while the covers are open and which will prohibit opening the covers until the power driving the baskets has been shut off.

(c) Extractors shall be provided with a drain pipe not less than 1 ½ inches in diameter connected direct to underground storage tanks, to a suitable aboveground container, or to the washer through an approved extractor pump with connections fitted with proper valves.

(d) Brakes, if used, shall be so designed as to prevent striking sparks or developing excessive heat.

HISTORY: CL 1948, 29.300.

29.301 Class III installations; drying tumblers and cabinets.

Sec. 101. Drying tumblers and drying cabinets, in addition to complying with the preceding general requirements (section 96), shall be in accordance with the following:

(a) Drying tumblers and drying cabinets shall be constructed so that the solvent is removed from the fabrics and the machine (by evaporation and dilution with heated air flow) without the formation of flammable mixtures of vapor and air.

(b) The air-flow temperature shall be below the flashpoint of the solvent while the machine is being loaded or unloaded.

(c) A motor-driven fan for inducing air flow, heating coils, and the necessary automatic controls and interlocks shall be integral parts of the machine. Fan blades shall be of non-ferrous and non-combustible materials.

(d) In the event of electric power failure, when the temperature within the drying tumbler or cabinet is above the flashpoint of the solvent, the interior of the drying tumbler or cabinet shall be automatically *fiooded with steam or inert gas, and the machine shall be automatically locked closed until electric service is restored and until the temperature within the tumbler or cabinet is below the flashpoint of the solvent.

(e) Steam or hot water only shall be used to secure the necessary temperature in the drying tumblers and cabinets.

(f) The fan incorporated in a drying tumbler or drying cabinet shall be properly housed and so interlocked as to insure operation while the machine is in use. The fan spiders, blades, or running rings shall be constructed of non-ferrous metal.

(g) Drying tumblers and cabinets shall be ventilated to the outside air by means of properly constructed pipes and ducts connected to the exhaust side of the fan incorporated in the machine. Such discharge pipes shall be carried to a height of not less than 6 feet above the roof and shall be provided with cleanout facilities.

(h) Discharge pipes shall not terminate within 10 feet measured horizontally from any door, window, or frame wall of any adjoining building.

(i) Drying tumblers shall be provided with interlocks so that the cylinder cannot be power-driven while the access door is open. Opening the access door shall automatically stop the cylinder drive motor.

HISTORY: CL 1948, 29.301.

*NOTE: The word "fiooded" is a misspelling. The word should be "flooded."

29.302 Class III installations; stills and condensers.

Sec. 102. Stills and condensers, in addition to complying with the preceding general requirements (section 96), shall be in accordance with the following:

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(a) Steam or hot water only shall be used as a source of heat. If steam is used, a pressure regulating valve shall be installed in the steam supply line to the still.

(b) They shall be liquid and gas tight.

(c) Stills shall be designed for operation on the vacuum principle. Pressure-operated stills shall be prohibited.

(d) The vent line from the vacuum release valve shall extend to the outside of the building.

(e) A check valve shall be in the steam line between the boiler and the still.

(f) Each still shall be provided with a combination vacuum and pressure gauge.

(g) Each still shall be equipped with a constant level valve to automatically maintain the solvent liquid level in the still at the proper height.

HISTORY: CL 1948, 29.302.

29.303 Class III installations; piping and fittings, testing.

Sec. 103. Piping and fittings shall be full-weight wrought iron or the equivalent. Where unions are used they shall be of the approved hazardous liquid type. All piping shall be tested to a pressure of at least 50 pounds per square inch and proved tight and otherwise protected against mechanical injury.

HISTORY: CL 1948, 29.303.

29.304 Class III installations; valves.

Sec. 104. All valves handling solvent shall be of the type approved for hazardous liquids or of the type incorporating an unthreaded, shouldered, beveled packing gland stuffing box.

HISTORY: CL 1948, 29.304.

29.305 Class III installations; scouring or brushing tables, scrubbing tubs.

Sec. 105. Articles, the character of which prevents their washing in the usual washing machines, may be cleaned on scouring or brushing tables or in approved scrubbing tubs provided the total amount of solvent used in such open containers shall not exceed 3 gallons. Solvents for this purpose shall be used from approved safety cans and returned to settling tanks as soon as the operation is completed. Scrubbing tubs shall be secured to the floor and shall be provided with permanent 1 ½ inch trapped drains to underground tanks, or to approved containers where underground tank is not available.

HISTORY: CL 1948, 29.305.

29.306 Class III installations; scouring or brushing operations.

Sec. 106. All scouring or brushing operations shall be carried on in the dry cleaning room or in a separate fire-resistive compartment with wall openings to the outside only.

HISTORY: CL 1948, 29.306.

29.307 Class III installations; location of scouring or brushing table.

Sec. 107. The scouring or brushing table or scrubbing tub shall be so located as to ensure thorough and effective disposal of vapors through the ventilating system.

HISTORY: CL 1948, 29.307.

29.308 Class III installations; scouring or brushing table requirements.

Sec. 108. The scouring or brushing table shall have a liquid-tight top with a curb on all sides not less than 1 inch high. The top of the table shall be so pitched as to ensure thorough draining to approved container or to a 1 ½ inch drain connection with liquid

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seal trap direct to underground tank. Metal tops where used shall be liquid-tight and permanently and effectively grounded. The table shall be secured to the floor or wall so as not to disturb the grounding and drain connections.
HISTORY: CL 1948, 29.308.

29.309 Class III installations; flammable solvents for spotting.

Sec. 109. Flammable solvents used in connection with spotting operations shall be limited to 1 gallon and dispensed from approved safety cans. Storage shall be in approved safety cans or sealed containers of not over 1 gallon capacity, and in amount approved by the state fire marshal.
HISTORY: CL 1948, 29.309.

29.310 Class III installations; instructing employees as to hazards of work.

Sec. 110. All employees shall be thoroughly instructed as to the hazards involved in their departments and in the work which they perform.
HISTORY: CL 1948, 29.310.

29.311 Class III installations; searching for foreign materials.

Sec. 111. All clothes when received at the plant shall be thoroughly searched in the receiving room and all foreign materials, especially matches and metallic substances, removed.
HISTORY: CL 1948, 29.311.

29.312 Class III installations; draining solvent from clothing.

Sec. 112. In removing the batch of clothes from a washer excess solvent shall be drained from the clothing to prevent spillage on the floor.
HISTORY: CL 1948, 29.312.

29.313 Class III installations; open floor drains.

Sec. 113. No open floor drains are permitted direct to sewers unless installed with an approved type intercepter.
HISTORY: CL 1948, 29.313.

29.314 Class III installations; flammable liquids for cleaning floors prohibited.

Sec. 114. Flammable liquids shall not be used for cleaning floors.
HISTORY: CL 1948, 29.314.

29.315 Class III installations; smoking prohibited, posting signs.

Sec. 115. Smoking on the premises shall be strictly prohibited and "No Smoking" signs shall be posted.
HISTORY: CL 1948, 29.315.

29.316 Class III installations; removal of lint and refuse from traps.

Sec. 116. The lint and refuse shall be removed from all traps after the close of the day's work, deposited in approved waste cans, removed from the premises, and safely disposed of. At all other times the trap covers shall be kept securely in place.
HISTORY: CL 1948, 29.316.

29.317 Class III installations; fire, ventilating system to be closed; steam flooding system, inspection, testing.

Sec. 117. (a) On the discovery of fire, the ventilating system shall be shut down immediately.

(b) In order that reliable operation of the drying tumbler or cabinet steam flooding system may be insured, periodic inspections of all valves and piping shall be made. Other steam lines shall also be subject to test periodically.
HISTORY: CL 1948, 29.317.

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29.318 Class III installations; transferring solvents from shipping drums to system.

Sec. 118. The transfer of solvent from the shipping or supply drums to the system during the initial charging or whenever replenishing the solvent supply shall be accomplished by utilizing either the system circulating pumps and piping or a separate pump and piping.

HISTORY: CL 1948, 29.318.

29.319 Class III installations; oil fire extinguishing equipment.

Sec. 119. In addition to the regular first aid fire extinguishing equipment required to meet the general needs of the occupancy, approved extinguishing devices of a type suitable for use on oil fires shall be provided for every room or area where flammable liquids are stored or used. These may be hand extinguishers, and if necessary, wheeled extinguishers, depending upon the size of the plant.

HISTORY: CL 1948, 29.319.

CLASS IV.

Systems using non-flammable solvents.

Systems utilizing solvents classified as non-flammable, or as non-flammable at ordinary temperatures and only slightly flammable at higher temperatures, shall be designed as class IV installations, and shall comply with the following requirements:

29.320 Class IV installations; plants using nonflammable solvents; location, approval.

Sec. 120. Dry cleaning systems which utilize solvents properly within the scope of the above definition and in which no solvents of a more hazardous nature are employed, may be installed in any building approved by the department of public health.

HISTORY: CL 1948, 29.320;—Am. 1956, p. 321, Act 167, Eff. Aug. 11;—Am. 1966, p. 523, Act 308, Eff. Mar. 10, 1967.

29.321 Class IV installations; building as dwelling; exception.

Sec. 121. No such dry cleaning systems shall be located in any building occupied in part as a dwelling. An exception may be granted when due to special construction, location or use, such dry cleaning establishment will not create injury or hazard to health as determined by the department of public health.

HISTORY: CL 1948, 29.321;—Am. 1956, p. 321, Act 167, Eff. Aug. 11;—Am. 1966, p. 523, Act 308, Eff. Mar. 10, 1967.

29.322 Class IV installations; escape of vapors.

Sec. 122. Such systems shall be so constructed and installed as to prevent the escape of substantially any vapors into the atmosphere of the dry cleaning room.

HISTORY: CL 1948, 29.322;—Am. 1956, p. 321, Act 167, Eff. Aug. 11.

29.323 Class IV installations; ventilation requirements.

Sec. 123. In any case where such systems are used, ventilation shall be installed to meet the requirements of the department of public health.

HISTORY: CL 1948, 29.323;—Am. 1966, p. 524, Act 308, Eff. Mar. 10, 1967.

29.324 Class IV installations; location of systems, exceptions.

Sec. 124. Such systems shall not be installed in basements or other locations difficult to ventilate. An exception may be granted when due to special construction, location or use, such dry cleaning establishment will not create injury or hazard to health as determined by the department of public health.

HISTORY: CL 1948, 29.324;—Am. 1956, p. 321, Act 167, Eff. Aug. 11;—Am. 1966, p. 524, Act 308, Eff. Mar. 10, 1967.

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29.325 Class IV installations; flammable solvent for brushing, scouring, scrubbing, spotting.

Sec. 125. The use of any flammable solvent for brushing, scouring or scrubbing shall be prohibited. The use of such liquids for spotting purposes shall be limited to 1 quart with storage in and application from any approved safety can.

HISTORY: CL 1948, 29.325.

29.326 Class IV installations; fire extinguishing equipment.

Sec. 126. In addition to the regular first aid fire extinguishing equipment required to meet the general needs of the occupancy, approved extinguishing devices of a type suitable for use on oil fires shall be provided for every room or area in which the dry cleaning or spotting operations are carried on. These may be hand extinguishers, and if necessary, wheeled extinguishers, depending upon the size of the plant.

HISTORY: CL 1948, 29.326;—Am. 1962, p. 451, Act 205, Imd. Eff. Jun. 18.

CHAPTER IV.

ENFORCEMENT.

29.327 Violations of act; penalties.

Sec. 127. Whoever being the owner, or owners or lessee of a dry cleaning business who has been issued a permit in accordance with the provisions of this act and whosoever shall use a liquid other than for which he is licensed shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than $10.00 or more than $100.00, or imprisoned in the county jail for a period of not less than 30 days, nor more than 90 days, or both such fine and imprisonment; and whoever being such owner or owners, occupants, lessee, or agent thereof who shall violate any of the provisions of this act or fail to comply therewith, or whoever shall violate or fail to comply with any order or regulation made thereunder, within 10 days, or whoever shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder shall severally for each and every violation and noncompliance respectively be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $10.00, or more than $100.00 or imprisoned in the county jail for a period of not less than 30 days nor more than 90 days, or both such fine and imprisonment.

HISTORY: CL 1948, 29.327;—Am. 1966, p. 524, Act 308, Eff. Mar. 10, 1967.

29.328 Enforcement of act.

Sec. 128. It shall be the duty of the state fire marshal, his deputies and assistants, and the department of public health to enforce the provisions of this act.

HISTORY: CL 1948, 29.328;—Am. 1966, p. 524, Act 308, Eff. Mar. 10, 1967.

29.329 Cleanliness of establishment.

Sec. 129. All persons, firms or corporations engaged in dry cleaning shall keep their establishments in a clean and sanitary condition, free from the accumulation of dirt, waste and fire hazards.

HISTORY: CL 1948, 29.329.

29.330 Repeal.

Sec. 130. Act No. 276 of the Public Acts of 1937, as amended, is hereby repealed.

HISTORY: CL 1948, 29.330.

Act 211, 1964, p. 280; Imd. Eff. May 22.

AN ACT to provide for the carrying of fire extinguishers in police and peace officers' vehicles.

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The People of the State of Michigan enact:

29.351 Police or peace officers' vehicles; fire extinguishers.

Sec. 1. A state or county owned police or peace officers' vehicle shall carry a dry chemical type fire extinguisher listed by and bearing the label of a nationally recognized testing laboratory and containing not less than 4 pounds of extinguishing agent, which shall be inspected at least annually by the local fire department.

HISTORY: New 1964, p. 280, Act 211, Imd. Eff. May 22.

Act 291, 1966, p. 479; Eff. Jan. 1, 1968.

AN ACT to provide for the creation of a fire fighters training council; to provide for the establishment of the fire fighters training council fund and allocations therefrom to local agencies of government participating in a fire fighters training program; and to make an appropriation.

The People of the State of Michigan enact:

29.361 Short title; fire fighters' training council act of 1966.

Sec. 1. This act shall be known and may be cited as the "fire fighters training council act of 1966".

HISTORY: New 1966, p. 480, Act 291, Eff. Jan. 1, 1968.

29.362 Fire fighters' training council act; definitions.

Sec. 2. As used in this act:

(a) "Council" means the fire fighters training council.

(b) "Executive secretary" means the executive secretary of the council.

(c) "Fire fighter" or "fireman" or "volunteer fireman" means a member of a fire department or other organization of a city, county, township or village regularly employed or a volunteer fireman who is responsible for the extinguishment of fires, prevention and detection and the enforcement of the general fire laws of this state, but shall not include any person serving as such solely by virtue of his occupying any other office or position; nor shall such term include a commissioner of fire, deputy or assistant commissioner of fire, chief of fire, deputy or assistant chief of fire, or any person having an equivalent title who is appointed or employed by a city, county, township or village to exercise equivalent supervisory authority.

HISTORY: New 1966, p. 480, Act 291, Eff. Jan. 1, 1968.

29.363 Fire fighters' training council; creation; members, appointment, senate approval.

Sec. 3. (1) The fire fighters training council is hereby created within the department of state police and shall consist of 6 members selected as follows:

(a) The director of state police, or his designated representative, shall be ex-officio a member.

(b) Two members appointed to the council by the governor from a list of 5 active members submitted by the Michigan state fire chief's association.

(c) One member appointed to the council by the governor from a list of 3 active fire fighters submitted by the Michigan state fire fighter's association.

(d) One member appointed to the council by the governor from a list of 3 names submitted by the Michigan state firemen's association.

(e) One member appointed to the council by the governor from a list of 3 names submitted by the metropolitan club of America, incorporated.

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(2) All appointments made by the governor shall be with the advice and consent of the senate.

HISTORY: New 1966, p. 480, Act 291, Eff. Jan. 1, 1968.

29.364 Training council; terms, vacancies, reappointment.

Sec. 4. Members of the council shall hold office for a term of 3 years, except that of the members first appointed from nominees submitted by the Michigan state fire chief's association, 1 shall be appointed for 3 years and 1 for 2 years. A vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member who is to succeed in the same manner as the original appointment. Any member may be reappointed for additional terms.

HISTORY: New 1966, p. 480, Act 291, Eff. Jan. 1, 1968.

29.365 Training council; chairman, vice-chairman; membership not public office, effects.

Sec. 5. The council shall designate from among its members a chairman and a vice-chairman who shall serve for 1 year and who may be reelected. Membership on the council shall not constitute holding a public office, and members of the council shall not be required to take and file oaths of office before serving on the council. The council shall not have the right to exercise any portion of the sovereign power of the state. No member of the council shall be disqualified from holding any public office or employment by reason of his appointment of membership on the council, nor shall he forfeit any such office or employment, by reason of his appointment hereunder, notwithstanding the provisions of any general, special or local laws, ordinances or city charters.

HISTORY: New 1966, p. 480, Act 291, Eff. Jan. 1, 1968.

29.366 Training council; meetings, quorum; procedures.

Sec. 6. The council shall meet at least 4 times in each year and shall hold special meetings when called by the chairman or, in the absence of the chairman, by the vice-chairman or when called by the chairman upon the written request of 4 members of the council. The council shall establish its own procedures and requirements with respect to quorum, place and conduct of its meeting and other matters.

HISTORY: New 1966, p. 481, Act 291, Eff. Jan. 1, 1968.

29.367 Training council; annual report to governor, contents.

Sec. 7. The council shall make an annual report to the governor and each house of the legislature which will include pertinent data regarding the standards established and the degree of participation of municipalities in the training program.

HISTORY: New 1966, p. 481, Act 291, Eff. Jan. 1, 1968.

29.368 Training council; members, compensation and expenses.

Sec. 8. The members of the council shall serve without compensation, but shall be entitled to their actual expenses in attending meetings and in the performance of their duties.

HISTORY: New 1966, p. 481, Act 291, Eff. Jan. 1, 1968.

29.369 Training council; publication of advisory training standards.

Sec. 9. The council shall prepare and publish advisory training standards with due consideration to varying factors and special requirements of local fire agencies relative to:

(a) Minimum standards of physical, educational, mental and moral fitness which shall govern the recruitment, selection and appointment of fire fighters.

(b) The approval of fire fighter training schools administered by a city, county, township, village or corporation.

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(c) Minimum courses of study, attendance requirements, equipment and facilities required at approved city, county, township, village or corporation fire fighter training schools.

(d) Minimum qualifications for instructors at approved fire fighter training schools.

(e) Minimum basic training requirements which fire fighters appointed to probationary terms shall complete before being eligible for continued or permanent employment, and the time within which such basic training must be completed following such appointment to a probationary term.

(f) Minimum basic training requirements which fire fighters not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within such basic training must be completed following such appointment on a nonpermanent basis.

(g) Categories or classifications of advanced inservice training programs and minimum courses of study and attendance requirements for such categories or classifications.

(h) The establishment of subordinate regional training centers in strategic geographic locations in order to serve the greatest number of fire departments that are unable to support their own training programs.

HISTORY: New 1966, p. 481, Act 291, Eff. Jan. 1, 1968.

29.370 Training council; cooperation with other agencies, colleges and universities.

Sec. 10. The council may enter into agreement with other agencies, colleges and universities to carry out the intent of this act.

HISTORY: New 1966, p. 481, Act 291, Eff. Jan. 1, 1968.

29.371 Training council; powers and duties.

Sec. 11. The council may:

(a) Visit and inspect any fire fighter training school, or examine the curriculum or training procedures, for which application for approval has been made.

(b) Issue certificates to fire fighter training schools qualifying under the regulations of the council.

(c) Authorize the issuance of certificates of graduation or diplomas by approved fire fighter training schools to fire fighters who have satisfactorily completed minimum courses of study.

(d) Cooperate with state, federal, local fire agencies in establishing and conducting local or area schools, or regional training centers for instruction and training of fire fighters of this state, its cities, counties, townships and villages.

(e) Make recommendations to the legislature on matters pertaining to qualification and training of fire fighters.

HISTORY: New 1966, p. 481, Act 291, Eff. Jan. 1, 1968.

29.372 Training council; executive secretary, appointment, term, duties, compensation.

Sec. 12. There shall be an executive secretary of the council who shall be appointed by the council, and who shall hold office during the pleasure of the council. He shall perform such functions and duties as may be assigned to him by the council. He shall receive compensation and reimbursement for expenses within the amounts available by appropriation.

HISTORY: New 1966, p. 482, Act 291, Eff. Jan. 1, 1968.

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29.373 Fire fighters' training fund; appropriations, limitations.

Sec. 13. There is created in the state treasury a fire fighters training fund from which the legislature shall appropriate such sums as are deemed necessary for the purposes of this act but in no case shall such appropriations be in excess of 75% of the amounts paid into the fund.

HISTORY: New 1966, p. 482, Act 291, Eff. Jan. 1, 1968.

29.374 Training costs of fire fighters; reimbursement to local units, limitations.

Sec. 14. The amounts annually appropriated by the legislature shall be paid by the state treasurer in accordance with the accounting laws of the state upon certification of the executive secretary of the council for the purpose of reimbursing the city, county, township or village for regular fire fighters in the fire department in an amount not to exceed 1/2 of the salary paid to each fire fighter meeting the recruitment standards and participating in training meeting the standard prescribed pursuant to this act during the period covered by the allocation, plus $8.00 of the necessary living expenses incurred by such fire fighter which are necessitated by training requiring that he be away from his residence overnight. The amounts annually appropriated by the legislature shall be paid by the state treasurer in accordance with the accounting laws of the state upon certification of the executive secretary of the council for the purpose of reimbursing the city, county, township or village for volunteer fire fighters in an amount not to exceed $12.50 for lost wages, to be matched by the local municipality for each fire fighter meeting the recruitment standards and participating in training meeting the standard prescribed pursuant to this act during the period covered by the allocation, plus $8.00 of the necessary living expenses, to be matched by the local municipality, incurred by such fire fighter which are necessitated by training requiring that he be away from his residence overnight. If the moneys in the fire fighter training fund to be appropriated by the legislature for such salary and expense reimbursement are insufficient to allocate such amount to each participating city, county, township or village, the amount allocated to each shall be reduced proportionately. In no event shall any allocations be made to any city, county, township or village which has not, throughout the period covered by the allocation, adhered to the standards established by the council as applicable to personnel recruited or trained by such city, county, township or village during such period.

HISTORY: New 1966, p. 482, Act 291, Eff. Jan. 1, 1968.

29.375 Application by local units for aid under act.

Sec. 15. Any city, county, township or village which desires to receive aid pursuant to this act shall make application to the council for such aid.

HISTORY: New 1966, p. 482, Act 291, Eff. Jan. 1, 1968.

29.376 Training council; rules and regulations.

Sec. 16. The council shall adopt rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 483, Act 291, Eff. Jan. 1, 1968.

29.377 Effective date.

Sec. 17. This act shall take effect January 1, 1968.

HISTORY: New 1966, p. 483, Act 291, Eff. Jan. 1, 1968.

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Act 69, 1968, p. 115; Imd. Eff. May 28.

AN ACT to exempt firemen from carrying certain papers on their person while responding to or returning from a fire alarm or while actually engaged in fighting a fire.

The People of the State of Michigan enact:

29.391 Exemption of firemen from carrying certain papers.

Sec. 1. Notwithstanding any provision of law to the contrary, any fireman while responding to or returning from a fire alarm or while actually engaged in fighting a fire shall be exempt from carrying on his person any certificate, license or any paper or writing required by law to be on his person or presented upon demand of a peace officer.

HISTORY: New 1968, p. 115, Act 69, Imd. Eff. May 28.

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CHAPTER 30. CIVILIAN DEFENSE

MICHIGAN CIVILIAN DEFENSE ACT
Act 83 of 1943
30.1-30.16 Repealed.
30.19 Repealed.

BLACKOUTS AND AIR RAID PROTECTION
Act 10 of 1942 (1st Ex. Ses.)
30.21-30.23 Repealed.

TRAFFIC, BLACKOUTS AND AIR RAIDS
Act 13 of 1942 (1st Ex. Ses.)
30.31-30.41 Repealed.

SABOTAGE PREVENTION ACT
Act 366 of 1941
30.51-30.64 Repealed.

PROTECTION OF STATE PROPERTY
Act 14 of 1942 (1st Ex. Ses.)
30.71-30.73 Repealed.

SECURITY INVESTIGATION DIVISION
Act 39 of 1950 (Ex. Ses.)
30.101 State police security investigation division; creation, appropriation, purpose; files; authority of commissioner.
30.102 Michigan state troops; appropriation.
30.103 Civilian defense; appropriation.
30.104 Michigan state police; appropriation, purpose.
30.105 Federal funds; control by state administrative board; release, disbursement.

BLOOD TYPING PROGRAM
Act 43 of 1950 (Ex. Ses.)
30.151 Blood typing and collection of whole blood and plasma; appropriation; coordination by Michigan war council.
30.152 Blood typing program; report of Michigan war council to legislature.
30.153 Blood typing program; appropriations, disbursement.

CIVILIAN DEFENSE ORGANIZATION—EMPLOYEES OATH
Act 203 of 1951
30.201-30.203 Repealed.
30.204 Civilian defense organization; persons prohibited from employment; loyalty oath, form.

CIVIL DEFENSE PROTECTION
Act 154 of 1953
30.221 Civilian defense protection; organization of forces; scope of act.
State and local civil defense organizations; creation; powers conferred.
Same; coordination with agencies of other states, United States and private agencies.
30.222 Civil defense act; definitions.
30.223 Michigan civil defense advisory council; membership, meetings, compensation, expenses.
State police commissioner as director; deputy, cooperation, expenditure of appropriation.
County and local organizations; coordinators.
Mobile support units, call to duty.
30.224 Civil defense department; administrative powers of governor.
(a) General powers of governor.
(b) Emergency powers of governor.
30.225 Director of civil defense; powers and duties prior to declaration of emergency.
During declared emergency.
30.226 Political subdivisions; powers of action for civil defense purposes; rules and regulations, enforcement.
30.227 Civil defense forces personnel; powers, duties, rights, privileges, liabilities; reimbursement of political subdivisions by state; personal injury or property damage; safety hazards.
30.228 Federal services, equipment, materials, supplies, funds; acceptance by state.
30.229 Civil defense organization; political activity prohibited.
30.230 Civil defense organization personnel; oath.
30.231 Violation of act; penalty.
30.232 Construction of act.
30.233 Repeals.

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT
Act 151 of 1953
30.261 Interstate civil defense and disaster compact.

GIFTS OR GRANTS FOR CIVILIAN DEFENSE—TRANSFER OF POWERS AND DUTIES
Act 236 of 1962
30.309 Gift or grant for civil defense; control of fund, appropriation.
30.310 Office of civil defense; abolition and transfer of powers, duties and functions to state police.
30.310a Civil defense appropriation; allotment prior to executive reorganization.

EXECUTIVE ORDER
30.321-30.326 Repealed.

30.1-30.16 Repealed. 1953, p. 182, Act 154, Imd. Eff. Jun. 2.
Sections constituted the civil defense act and created the Michigan war council.

30.19 Repealed. 1952, p. 307, Act 201, Imd. Eff. Apr. 29;—1953, p. 182, Act 154, Imd. Eff. Jun. 2.
Section related to expiration of the civil defense act.

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30.21-30.73 Repealed. 1962, p. 67, Act 81, Eff. Mar. 28, 1963.
Sections related to wartime measures, blackouts, traffic regulation, protection of defense industries and state property.

Act 39, 1950 (Ex. Ses.), p. 123; Imd. Eff. Sep. 8.

AN ACT to protect the welfare and safety of the people of the state of Michigan; to provide for civilian defense, the organization of the Michigan state troops, a security investigation division in the Michigan state police, and for additional personnel in the Michigan state police; to make an appropriation therefor; and to provide for the disbursement thereof.

The People of the State of Michigan enact:

30.101 State police security investigation division; creation, appropriation, purpose; files; authority of commissioner.

Sec. 1. There is hereby appropriated from the general fund of the state for the fiscal year ending June 30, 1951, to the Michigan state police the sum of $74,300.00 for a special division hereby created within the department of the Michigan state police to be known as the security investigation division, to investigate activities within the state that are not related to industrial reforms but are subversive of state or federal security, including but not by way of limitation acts of criminal syndicalism and sabotage, to obtain and compile information concerning such activities, and to cooperate with military authorities, and to cooperate with federal, state and local law enforcing and investigating agencies in the enforcement of federal and state laws relating thereto as follows:

Salaries and wages	$31,900.00
Contractual service, supplies and materials	16,410.00
Equipment	25,990.00
Total	$74,300.00

The files containing such information shall not be open for public inspection, nor shall such information contained therein be released: Provided, That the commissioner may furnish information to federal, state and local law enforcement agencies or to the responsible heads of any agency having charge of employment by the state whom he considers proper to receive the same when, in his opinion, it is necessary to carry out the objectives of this section. The commissioner of the Michigan state police is hereby authorized, in the creation and operation of such division, to appoint, employ, assign or retain such persons outside of or within the department of the Michigan state police as he may deem necessary, in carrying out the provisions of this act regarding subversive activities, at such compensation as he may determine. In his discretion, he may designate 1 or more of such employees to have the powers of an officer of the Michigan state police.

HISTORY: New 1950, p. 123, Act 39, Imd. Eff. Sep. 8.

30.102 Michigan state troops; appropriation.

Sec. 2. There is hereby appropriated from the general fund of the state for preliminary planning and organization of the Michigan state troops the sum of $30,000.00. In case of the induction of a portion or all of the Michigan national guard into federal service, the unexpended balance of the appropriation made under the provisions of

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Act No. 32 of the Public Acts of the Extra Session of 1950 to the military establishment may be used for the organization, administration and training of the Michigan state troops to the extent of replacing the Michigan national guard units as may become necessary.

HISTORY: New 1950, p. 123, Act 39, Imd. Eff. Sep. 8.

30.103 Civilian defense; appropriation.

Sec. 3. There is hereby appropriated from the general fund of the state for civilian defense the sum of $100,000.00 for the fiscal year ending June 30, 1951, disbursable under the provisions of Act No. 83 of the Public Acts of 1943, being sections 30.1 to 30.19, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1950, p. 124, Act 39, Imd. Eff. Sep. 8.

30.104 Michigan state police; appropriation, purpose.

Sec. 4. There is hereby appropriated from the general fund of the state to the Michigan state police for the fiscal year ending June 30, 1951, the sum of $158,645.00, to provide additional personnel as follows:

Salaries and wages	$74,470.00
Contractual service, supplies and materials	59,760.00
Equipment	24,415.00
Total	$158,645.00

HISTORY: New 1950, p. 124, Act 39, Imd. Eff. Sep. 8.

30.105 Federal funds; control by state administrative board; release, disbursement.

Sec. 5. All moneys received from the federal government by the state of Michigan for the use of any department or agency for which an appropriation is made under the provisions of this act are hereby appropriated for the purposes for which granted. All moneys appropriated under the provisions of this act and all moneys received from the federal government for the use of any department or agency for which an appropriation is made under the provisions of this act shall be subject to the supervisory control of the state administrative board and shall be disbursed in accordance with the accounting laws of the state when released by the state administrative board. The state administrative board is hereby authorized to release said funds from time to time as needed.

HISTORY: New 1950, p. 124, Act 39, Imd. Eff. Sep. 8.

Act 43, 1950 (Ex. Ses.), p. 129; Imd. Eff. Oct. 3.

AN ACT to provide for a uniform program of blood typing and the collection of whole blood and blood plasma; to prescribe the powers and duties of certain agencies with respect thereto; and to make an appropriation to carry out the provisions of this act.

The People of the State of Michigan enact:

30.151 Blood typing and collection of whole blood and plasma; appropriation; coordination by Michigan war council.

Sec. 1. There is hereby appropriated from the general fund of the state the sum of $500,000.00, to be disbursed under the provisions of Act No. 83 of the Public Acts of 1943, as amended, being sections 30.1 to 30.19, inclusive, of the Compiled Laws of

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1948, known as the "Michigan civilian defense act," for the purpose of coordinating and enlarging blood typing programs and collection of whole blood and blood plasma in the state of Michigan by blood banks, hospitals, the American red cross, physicians, pathologists and approved technicians, the cost of which may be reimbursed by the state under agreement approved by the Michigan war council. It shall be the duty of the Michigan war council, created under said Act No. 83 of the Public Acts of 1943, in cooperation with the Michigan department of health, to correlate in the state of Michigan on a local level all blood banks, hospitals, units of the American red cross, physicians, pathologists and approved technicians in the typing of blood and the collection of whole blood and blood plasma. Serum shall be furnished by the state from the appropriation herein made in carrying out the aforesaid purposes according to a uniform typing procedure. The Michigan war council is hereby directed to utilize all existing blood typings by local blood banks, hospitals, the American red cross, physicians, pathologists and approved technicians.

HISTORY: New 1950, p. 129, Act 43, Imd. Eff. Oct. 3.

30.152 Blood typing program; report of Michigan war council to legislature.

Sec. 2. It shall be the duty of the Michigan war council to report to the Michigan legislature on January 1, 1951, the progress made in carrying out the provisions of this act for the safety of the people of the state of Michigan.

HISTORY: New 1950, p. 130, Act 43, Imd. Eff. Oct. 3.

30.153 Blood typing program; appropriations, disbursement.

Sec. 3. The moneys appropriated under the provisions of this act shall be disbursed and released by the state administrative board, and such moneys shall not be governed by any laws of this state with respect to allotments. The auditor general shall draw his warrants on the state treasurer on vouchers signed by the director of civilian defense. No funds appropriated under the provisions of this act shall be used for capital building construction purposes.

HISTORY: New 1950, p. 130, Act 43, Imd. Eff. Oct. 3.

Act 203, 1951, p. 273; Imd. Eff. Jun. 14.

AN ACT to supplement the laws of this state with respect to civilian defense; to prescribe the powers and duties of certain state officials with respect thereto; and to prescribe the oath to be taken by certain persons in connection with civilian defense.

The People of the State of Michigan enact:

30.201-30.203 Repealed. 1953, p. 182, Act 154, Imd. Eff. Jun. 2.

Sections authorized regional defense areas and acceptance by the governor of grants, services and equipment for civil defense.

30.204 Civilian defense organization; persons prohibited from employment; loyalty oath, form.

Sec. 4. No person shall be employed or associated in any capacity in any civilian defense organization established under this act who advocates a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for civilian defense shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

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"I, ..., do solemnly swear (or affirm) that I will support and defend the constitution of the United States and the constitution of the state of Michigan, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of civilian defense organization) I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

HISTORY: New 1951, p. 274, Act 203, Imd. Eff. Jun. 14.

Act 154, 1953, p. 175; Imd. Eff. Jun. 2.

AN ACT to provide civil defense protection within this state; to create a Michigan civil defense advisory council and to prescribe its powers and duties; to create the position of director of civil defense and county and local civil defense organizations and to prescribe their powers and duties; to prescribe the powers and duties of the governor; to prescribe immunities and liabilities; to provide for the acceptance of gifts; and to prescribe penalties. Am. 1964, p. 394, Act 257, Imd. Eff. Jun. 1.

The People of the State of Michigan enact:

30.221 Civilian defense protection; organization of forces; scope of act.

Sec. 1. (a) It is the intent of this act to provide for the organization of civil defense forces within the state for the purpose of preparing passive resistance to direct attack or sabotage by a hostile nation, and to minimize the effects of such attacks if they should occur. It is also intended that this act will apply to the relief of disaster occurring as a result of natural causes where such disasters are beyond the control of local authorities.

State and local civil defense organizations; creation; powers conferred.

It is hereby found and declared to be necessary: (1) To create a state civil defense agency, and to authorize the creation of county and local organizations for civil defense in the political subdivisions of the state; (2) to confer upon the governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided herein; (3) to provide for the rendering of mutual aid among the political subdivisions of the state, and with other states, and with the federal government with respect to the carrying out of civil defense functions; and (4) to authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out the provisions of this act.

Same; coordination with agencies of other states, United States and private agencies.

(b) It is further declared to be the purpose of this act and the policy of the state that all civil defense functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the

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end that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster that may occur within the intent of this act.

HISTORY: New 1953, p. 175, Act 154, Imd. Eff. Jun. 2;—Am. 1956, p. 722, Act 227, Eff. Aug. 11.

30.222 Civil defense act; definitions.

Sec. 2. (a) "Civil defense", as used in this act, shall have the broad meaning of preparation for protection against, and relief from, the effects of direct attack or sabotage by a hostile nation or the agents thereof; except that it shall not include functions for which military forces and other federal agencies are responsible. It shall also include such activity as is required under this act for relief from the effects of natural disaster as defined herein.

(b) "Attack" shall mean any activity declared by the governor to be direct assault against the state by a hostile nation or the agents thereof, including bombing, chemical or biological warfare and sabotage.

(c) "Natural disaster" shall mean any condition, such as fire, flood, et cetera, resulting from natural or accidental cause and which is declared by the governor to be a "natural disaster" within the intent of this act; such natural disaster being limited to incidents of such proportions as to be beyond the control of local public and private agencies.

(d) "Civil defense volunteer" is any person who serves without compensation in the civil defense forces of the state or a political subdivision thereof.

(e) "Civil defense forces" shall mean all agencies, volunteer personnel, public officers and employees (temporary, substitute or auxiliary), including employees of school districts, boards of education and elected officials, having duties and responsibilities under or pursuant to this act in connection with civil defense.

HISTORY: New 1953, p. 175, Act 154, Imd. Eff. Jun. 2;—Am. 1956, p. 722, Act 227, Eff. Aug. 11.

30.223 Michigan civil defense advisory council; membership, meetings, compensation, expenses.

Sec. 3. (a) There is hereby created the Michigan civil defense advisory council of not to exceed 15 members, hereinafter designated as the council, which shall act as an advisory body to the governor in the development of plans for the efficient utilization of the resources and facilities of the state for the purposes set forth in this act.

The council shall consist of members appointed by the governor by and with the advice and consent of the senate and shall serve at the pleasure of the governor. The governor shall act as chairman of the council. Appointment of members shall be made with reference to their special knowledge of subjects related to state and national defense and without reference to their political affiliation. In the absence of the governor, the director of civil defense shall preside over the meetings of the council and act as chairman thereof.

The members of the council shall serve without compensation, but shall be reimbursed for their actual and necessary traveling and other expenses incurred with attendance upon meeting of the council.

State police commissioner as director; deputy, cooperation, expenditure of appropriation.

(b) The commissioner of the Michigan state police shall occupy the position of director of civil defense and shall be vested with and have the responsibilities of administering and directing state civil defense operations. He shall cooperate with all regional, county and local offices of civil defense as well as with all police and sheriff departments of the state having duties and functions of civil defense operations. He shall appoint a full time deputy director of civil defense and may employ such technical, clerical, stenographic and other personnel under civil service rules and regula-

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tions, and may make such expenditures within the appropriation therefor, or from other funds made available to him for the purpose of civil defense, as may be necessary to carry out the purposes of this act.

The commissioner of the Michigan state police shall charge civil defense funds with expenses of the Michigan state police which are incurred in the performance of civil defense functions that qualify under federal civil defense matching funds whether or not incurred by the civil defense division, including without limitation the proper share of the costs of operations and communications, traffic and safety, training and other divisions of the Michigan state police, but no salaries or wages for employees, other than the director, shall be so charged unless the employees are engaged full time in civil defense activities.

County and local organizations; coordinators.

(c) Each county shall, and each city, township or village with 10,000 or more population, may establish an organization for civil defense in accordance with the state civil defense plan and program. Each organization for civil defense shall have a director appointed by the governing body of such county, township or village, or by the city in the manner provided in the charter for the appointment of the majority of administrative officials specifically enumerated in the charter, and confirmed by the governor, and who shall have responsibility for the organization, administration and operation of such local organization for civil defense, subject to the direction and control of the political subdivision concerned. No person shall be ineligible for appointment as a member of the state or local civil defense organization because he holds any other public office or trust, nor shall any person forfeit his right to any public office or trust by reason of his appointment under this act, notwithstanding any contrary provisions of law. The director of any county civil defense organization may also be appointed director for any city, township or village within such county and the director of any city, township or village civil defense organization may also be appointed county director. Each county, city, township and village organization for civil defense shall perform civil defense functions within the territorial limits of the political subdivision within which it is organized, except that in counties containing cities, townships or villages with 10,000 population or over, the county organization shall perform no civil defense functions within the territorial limits of such cities, townships and villages which are already being performed by the city, township or village civil defense organizations, unless the approval of the city, township or village civil defense director be first obtained.

The state director of civil defense may designate the county director as the coordinator of civil defense activity in the political subdivisions within the county, except that this shall not apply to cities of over 50,000 population without first obtaining the approval of the city director.

Mobile support units, call to duty.

(d) The director, at the request of the governor, is authorized to create and establish such number of mobile support units as may be necessary to reinforce civil defense organizations in stricken areas and with due consideration of the plans of the federal government and of other states. He shall appoint a commander for each such unit who shall have primary responsibility for the organization, administration and operation of such unit. Mobile support units shall be called to duty upon orders of the director and shall perform their functions in any part of the state or, upon conditions specified in any subsequent interstate compact, in other states.

HISTORY: New 1953, p. 176, Act 154, Imd. Eff. Jun. 2;—Am. 1954, p. 115, Act 98, Eff. Aug. 13;—Am. 1961, p. 376, Act 221, Eff. Sep. 8;—Am. 1964, p. 394, Act 257, Imd. Eff. Jun. 1.

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30.224 Civil defense department; administrative powers of governor.

Sec. 4. (a) General powers of governor:

(1) The governor shall have general direction and control of the department of civil defense and shall be responsible for the carrying out of the provisions of this act;

(2) On behalf of this state, the governor, with the approval of the administrative board, may enter into reciprocal aid agreements or compacts with other states and the federal government either on a statewide basis or county basis or with a neighboring state or province of a foreign country. Such mutual aid arrangements shall, within appropriation made therefor by the legislature, be limited to the furnishing or exchange of food, clothing, medicine and other supplies; engineering services; emergency housing; police services; national or state guards while under the control of the state; health, medical and related services; fire fighting, rescue, transportation and construction services and equipment; personnel necessary to provide or conduct these services; and such other supplies, equipment, facilities, personnel and services as may be needed; the reimbursement of costs and expenses therefor; and on such terms and conditions as are deemed necessary;

(3) The governor shall cooperate with the president and the heads of the armed forces and the civil defense agency of the United States, and with the officers and agencies of other states in matters pertaining to the civil defense of the state and nation and the incidents thereof; and in connection therewith take any measures which he may deem proper to carry into effect any request of the president and the appropriate federal officers and agencies for any action pertaining to civil defense;

(4) In the event of attack or natural disaster as herein defined, the governor may: (a) Authorize any department or agency of the state to lease or lend, on such terms and conditions as he may deem necessary to the defense of the state, any real or personal property of the state government to the president, the heads of the armed forces, or to the civil defense agency of the United States; (b) enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state, on such terms and conditions as he may deem necessary to the defense of the state, of any real or personal property of the state government, or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state; (c) the governing body of each political subdivision of the state may enter into such contract or lease with the state, or accept any such loan, or employ such personnel, and such political subdivision may equip, maintain, utilize and operate any such property and employ necessary personnel therefor in accordance with the purposes for which such contract is executed; (d) but no such lease, loan, transfer or employment shall extend beyond the termination of the emergency created by any attack or natural disaster as in this act defined.

Emergency powers of governor.

(b) Emergency powers of governor:

(1) In the event of attack as defined herein, the governor may declare that a state of emergency exists and he shall immediately convene the legislature for the purpose of legislating on subjects relating to the proclaimed state of emergency, and thereafter the governor shall have and may exercise for such period as the legislature determines such state of emergency exists the following additional emergency powers;

(2) To enforce all laws, rules and regulations relating to civil defense, and to assume direct operational control of all civil defense forces and helpers in the state;

(3) To take, use or destroy any and all real or personal property, or any interest therein, necessary or proper for the purposes of civil defense, and to make compensation for the property so seized, taken or destroyed on the following basis: Provided, That no property owned or operated by any public utility providing communications

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services shall be so taken, used or controlled until such time as the services being provided by the utility become inadequate: And provided further, That the power herein granted to the governor shall be subordinate to any similar power granted to the president of the United States by any act of congress;

(4) In case property is taken for temporary use, the governor, within 10 days of the taking, shall fix the amount of compensation to be paid therefor; and in case such property shall be returned to the owner in a damaged condition or shall not be returned to the owner, the governor shall fix within 10 days the amount of compensation to be paid for such damage or failure to return. Whenever the governor shall deem it advisable for the state to take title to property taken under this section, he shall forthwith cause the owner of such property to be notified thereof in writing by registered mail, postage prepaid, and forthwith cause to be filed a copy of said notice with the secretary of state;

(5) In case the owner shall refuse to accept the amount of compensation fixed by the governor, action may be brought in the state court of claims, which court shall have jurisdiction to determine the amount of just compensation due the owner; and

(6) To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population.

HISTORY: New 1953, p. 177, Act 154, Imd. Eff. Jun. 2;—Am. 1956, p. 723, Act 227, Eff. Aug. 11.

30.225 Director of civil defense; powers and duties prior to declaration of emergency.

Sec. 5. (a) Prior to the declaration of a state of emergency by the governor, as provided in this act, the director is authorized and empowered to:

(1) Make, amend and rescind orders, rules and regulations to carry out the provisions of this act with due consideration for plans of the federal government as prescribed and set out in Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948, and in Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948;

(2) Prepare a comprehensive plan and program for the civil defense of this state, such plan and program to be integrated into and coordinated with the civil defense plans of the federal government and all other states to the fullest possible extent;

(3) Delegate, with approval of the governor, to the several departments and agencies of the state government appropriate civil defense responsibilities, which responsibilities shall be exercised after a state of emergency has been declared, and review and coordinate the civil defense activities delegated to the several departments and agencies with those of the Michigan office of civil defense.

(4) Coordinate the preparation of plans and programs for civil defense by the political subdivisions of this state, such plans to be integrated into and coordinated with the civil defense plan and program of this state to the fullest possible extent;

(5) Ascertain the requirements of the state for food, clothing and other necessities of life in the event of attack, and to plan for the procurement of supplies, medicines, materials and equipment;

(6) Make, or cause to be made, surveys of industry, resources and facilities within the state which are necessary to carry out the purposes of this act;

(7) Institute training programs and public information programs and to take all preparatory steps, including the partial or full mobilization of the civil defense organizations in advance of actual attack or natural disaster in order to insure the furnishing of adequately trained forces of civil defense personnel;

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(8) Administer and authorize others to administer the oath taken by all persons who shall be employed or associated in any capacity in any civil defense organization established under this act;

(9) Delegate any authority vested in him under this act and to provide for the subdelegation of any such authority; and

(10) Sponsor and develop plans and agreements between the political subdivisions of this state.

All such officers and agencies shall cooperate with and extend their services and facilities to the director as he may request.

Same; during declared emergency.

(b) During a state of emergency declared by the governor, as provided in this act, the director is authorized and empowered:

(1) To utilize the services and facilities of existing officers and agencies of the state and of political subdivisions thereof, including civil defense forces; and

(2) To use and employ any of the property, services and resources within the state for the purposes set forth in this act and in accordance with the state civil defense plan.

HISTORY: New 1953, p. 178, Act 154, Imd. Eff. Jun. 2;—Am. 1956, p. 724, Act 227, Eff. Aug. 11.

30.226 Political subdivisions; powers of action for civil defense purposes; rules and regulations, enforcement.

Sec. 6. (a) Each political subdivision shall have the power and authority:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for civil defense purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any civil defense disaster; and to direct and coordinate the development of civil defense plans and programs in accordance with the policies and plans set by the federal and state civil defense agencies; and the provisions set forth in this act;

(2) To appoint, employ, remove or provide, with or without compensation, air raid wardens, rescue teams, auxiliary fire and police personnel and other civil defense workers;

(3) Subject to the order of the governor or the director or his authorized representative, in the event of attack or natural disaster as in this act defined, to assign and make available for duty, the employees, property or equipment of the political subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction and similar items or service for civil defense purposes within or outside of the physical limits of the subdivision;

(4) In the event of enemy attack, as defined herein, to waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution with or without compensation of supplies, materials and facilities, and the appropriation and expenditure of public funds;

(5) The director of each county and local organization for civil defense may develop, or cause to be developed, mutual aid arrangements with other public and private agencies within this state for reciprocal civil defense aid and assistance in case of attack or natural disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state civil defense plan and program, and in time of emergency it shall be the duty of each local organization for civil defense to render assistance in accordance with the provisions of such mutual aid arrangements; and

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(6) The director of each county and local organization for civil defense may assist in negotiation of reciprocal mutual aid agreements between the governor and the adjoining states (including foreign states or provinces) or counties thereof, and shall carry out arrangements or any such agreement relative to civil defense.

(b) In the event of a natural disaster in any political subdivision beyond the control of local, public or private agencies, the chief executive or governing body of such political subdivision may request the governor to declare that a natural disaster exists therein. In the event of such declaration by the governor, the director may request the civil defense forces of any political subdivision to go to the aid of such community. The chief executive or governing body of any political subdivision so ordered shall comply with such order when received directly from the state director or by a duly authorized representative of the state director.

(c) The chief executive or governing body of every political subdivision in the state shall cooperate with the director in matters of civil defense, and shall comply with the order of the director when such orders are issued directly or through the director of civil defense of the county in which such political subdivision is located.

(d) The several political subdivisions of the state and other agencies designated or appointed by the governor are authorized and empowered to make, amend and rescind such orders, rules and regulations as may be necessary for civil defense purposes, and to supplement the carrying out of the provisions of this act, but not inconsistent with any orders, rules or regulations promulgated by the governor or by any state agency exercising a power delegated to it by him.

(e) All orders, rules and regulations promulgated by the governor, or by any political subdivision or other agency authorized by this act to make orders, rules and regulations, shall have the full force and effect of law in the event of attack as in this act defined when, in the event of issuance by the governor or any state agency, a copy thereof is filed in the office of the secretary of state, or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk of the political subdivision or agency promulgating the same. All existing laws, ordinances, rules and regulations in conflict with the provisions of this act, or with any order, rule or regulation issued under the authority of this act, shall be suspended during the period of time and to the extent that such conflict exists.

(f) In order to attain uniformity so far as practicable throughout the country in measures taken to aid civil defense, all action taken under this act and all orders, rules and regulations made pursuant thereto shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, regulations, actions, recommendations and requests.

(g) The law enforcing authorities of the state and of the several political subdivisions thereof shall enforce the orders, rules and regulations issued pursuant to this act.

HISTORY: New 1953, p. 179, Act 154, Imd. Eff. Jun. 2.

30.227 Civil defense forces personnel; powers, duties, rights, privileges, liabilities; reimbursement of political subdivisions by state; personal injury or property damage; safety hazards.

Sec. 7. (a) Personnel of civil defense forces while on duty shall:

(1) If they are employees of the state, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment;

(2) If they are employees of a political subdivision of the state and whether serving within or without the political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment; and

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(3) If they are not employees of the state or a political subdivision thereof, be entitled to the same rights and immunities as are provided by law for the employees of the state. All personnel of civil defense forces shall, while on duty, be subject to the operational control of the authority in charge of civil defense activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(b) In case of attack and declaration of a state of emergency, the state shall, within appropriations made therefor by the legislature reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while serving as members of civil defense forces, and for all payments for death, disability or injury of such employees incurred in the course of such duty, and for all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such civil defense forces.

(c) In cases of natural disaster and an appeal to the governor for aid by the local executive officer of a political subdivision, as provided in section 6, subdivision (b) of this act, the state shall, within appropriations made therefor by the legislature reimburse political subdivisions sending aid to the stricken community for all such costs as are set forth in section 7, subdivision (b) of this act.

Political subdivisions receiving such aid shall be liable to the state for reimbursement of all funds expended by the state pursuant to the provisions of this section.

(d) Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any political subdivision of the state, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer civil defense worker, or a member of any agency engaged in civil defense activity: Provided, That the provisions of this subdivision shall not be construed to restrict the rights of a volunteer civil defense worker to receive workmen's compensation as authorized under any existing or subsequent provisions of law pertaining thereto. The foregoing shall not affect the right of any person to receive benefits or compensation to which he might otherwise be entitled under the workmen's compensation law or any pension law or any act of congress.

(e) Neither the state nor any political subdivision of the state, nor, except in cases of wilful misconduct, gross negligence or bad faith, the employees, agents or representatives of the state or any political subdivision thereof, nor any volunteer or auxiliary civil defense worker or member of any agency engaged in any civil defense activity, complying with or reasonably attempting to comply with this act, or any order, rule or regulation promulgated pursuant to the provisions of this act, or pursuant to any ordinance relating to black-out or other precautionary measures enacted by any political subdivision of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity.

(f) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the state of Michigan or any of its political subdivisions a license or privilege, or otherwise permits the state of Michigan or any of its political subdivisions to inspect, designate and use the whole or any part or parts thereof for the purpose of sheltering persons during an actual, impending, mock or practice attack shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of or injury to any person on or about such real estate or premises under such license, privilege or permission or for loss or damage to the property of such person.

(g) Any person owning or controlling real estate or other premises who has gratuitously granted the use thereof for the purposes stated herein shall be legally obligated

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to make known to the licensee any hidden dangers or safety hazards which are known to the owner or occupant of said real estate or premises which might possibly result in the death or injury or loss of property to any person making use thereof for the aforementioned purposes.

HISTORY: New 1953, p. 180, Act 154, Imd. Eff. Jun. 2.

30.228 Federal services, equipment, materials, supplies, funds; acceptance by state.

Sec. 8. (a) Whenever the federal government or any agency or officer thereof shall offer to the state or through the state to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil defense, the state, acting through the governor or any political subdivision thereof acting with the consent of the governor and through its executive officer or governing body, may accept such offer, and upon such acceptance the governor of the state or executive or governing body of such political subdivision may authorize any officer of the state or of any such political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the state or such political subdivision and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The governor shall certify to the federal government that funds are available from the state or political subdivision thereof to match any grants, loans or advances from the federal government for civil defense equipment or supplies when said funds are on deposit with the state treasurer or by authorized action a political subdivision has certified that such funds are available by filing certification to that effect with the state treasurer.

(b) Whenever any person, firm or corporation shall offer to the state or to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan for purposes of civil defense, the state, acting through the governor, or any political subdivision thereof acting through its executive officer or governing body, may accept such offer and upon such acceptance the governor of the state or executive officer or governing body of any political subdivision of the state may authorize any officer of the state or any political subdivision thereof, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the state or any political subdivision thereof, and subject to the terms of the offer.

HISTORY: New 1953, p. 181, Act 154, Imd. Eff. Jun. 2.

30.229 Civil defense organization; political activity prohibited.

Sec. 9. No organization for civil defense established under the authority of this act shall participate in any form of political activity, nor shall it be employed, directly or indirectly, for political purposes.

HISTORY: New 1953, p. 182, Act 154, Imd. Eff. Jun. 2.

30.230 Civil defense organization personnel; oath.

Sec. 10. Each person appointed to serve in an organization for civil defense shall take an oath in writing as prescribed by the statutes of this state and by federal statutes pertaining to civil defense, before entering upon his duties.

HISTORY: New 1953, p. 182, Act 154, Imd. Eff. Jun. 2.

30.231 Violation of act; penalty.

Sec. 11. Any person wilfully violating any provision of this act or any rule, order or regulation made pursuant to this act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $100.00, or imprisoned in the county jail not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1953, p. 182, Act 154, Imd. Eff. Jun. 2.

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30.232 Construction of act.

Sec. 12. This act shall be construed liberally in order to effectuate its purposes.

HISTORY: New 1953, p. 182, Act 154, Imd. Eff. Jun. 2.

30.233 Repeals.

Sec. 13. Act No. 83 of the Public Acts of 1943, being sections 30.1 to 30.19, inclusive, of the Compiled Laws of 1948, and sections 1, 2 and 3 of Act No. 203 of the Public Acts of 1951, being sections 30.201 to 30.203, inclusive, of the Compiled Laws of 1948, are hereby repealed.

HISTORY: New 1953, p. 182, Act 154, Imd. Eff. Jun. 2.

CITED IN OTHER SECTIONS: The above section is cited in § 16.254.

Act 151, 1953, p. 170; Imd. Eff. Jun. 2.

AN ACT concerning interstate civil defense and ratifying on behalf of the state of Michigan a compact therefor.

The People of the State of Michigan enact:

30.261 Interstate civil defense and disaster compact.

Sec. 1. The legislature of this state hereby ratifies a compact on behalf of the state of Michigan with any other state legally joining therein in the form substantially as follows:

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting states solemnly agree:

Mutual aid.

Article 1. The purpose of this compact is to provide mutual aid among the states in meeting an emergency or disaster from enemy attack, including sabotage and subversive acts and direct attacks by bombs, shell fire and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the states that are parties hereto. The directors of civil defense of all party states shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

Civil defense plans and programs.

Article 2. It shall be the duty of each party state to formulate civil defense plans and programs for application within such state. There shall be frequent consultation between the representatives of the states and with the United States government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs, the party states shall so far as possible provide and follow uniform standards, practices and rules and regulations, including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

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(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party states;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic prior, during and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

Resources, availability.

Article 3. Any party state requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof: Provided, That it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the civil defense forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges and immunities as if they were performing their duties in the state in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the civil defense authorities of the state receiving assistance.

Certain licensees, recognition.

Article 4. Whenever any person holds a license, certificate or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party state to meet an emergency or disaster, and such state shall give due recognition to such license, certificate or other permit as if issued in the state in which aid is rendered.

Aid in another state.

Article 5. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be criminally liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

Supplementary agreements.

Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among 2 or more states may differ from that appropriate among other states party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or states. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Compensation and death benefits.

Article 7. Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

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Reimbursement by party state.

Article 8. Any party state rendering aid to another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in, the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests: Provided, That any aiding party state may assume in whole or in part such loss, damage, expense or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost: And provided further, That any 2 or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States government may relieve the party state receiving aid from any liability and reimburse the party state supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state, and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Evacuation and reception of civilian population.

Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies and all other relevant factors. Such plans shall provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States government under plans approved by it. After the termination of the emergency or disaster, the party state of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Compact, availability; "state" defined.

Article 10. This compact shall be available to any state, territory or possession of the United States and the District of Columbia. The term "state" may also include any neighboring foreign country or province or state thereof.

Committee.

Article 11. The committee established pursuant to article 1 of this compact may request the civil defense agency of the United States government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States government may attend meetings of such committee.

Compact operative upon ratification.

Article 12. This compact shall become operative immediately upon its ratification by any state as between it and any other state so ratifying, and shall be subject to approval by congress unless prior congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the civil defense agency and other appropriate agencies of the United States government.

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Duration.

Article 13. This compact shall continue in force and remain binding on each party state until the legislature or the governor of such party state takes action to withdraw therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by the governor of the party state desiring to withdraw to the governors of all other party states.

Saving clause.

Article 14. This compact shall be construed to effectuate the purposes stated in article 1 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

HISTORY: New 1953, p. 170, Act 151, Imd. Eff. Jun. 2.

Act 236, 1962, p. 548; Imd. Eff. Jul. 17.

AN ACT to make appropriations for the Michigan state police, various state departments and certain state purposes related to public safety and defense for the fiscal year ending June 30, 1963; to provide for the expenditures of such appropriations; and to provide for the disposition of fees and other income received by said agencies.

The People of the State of Michigan enact:

30.309 Gift or grant for civil defense; control of fund, appropriation.

Sec. 9. The governor of the state of Michigan is hereby authorized to accept on behalf of the state any gift or grant offered to it by a county, city, village or from any local civilian defense council and to take appropriate action to the end that such funds shall be used in accordance with the terms and conditions of the gift or grant.

A gift or grant which may be made for the purpose of providing a fund with which to match contributions of federal funds available for the acquisition of civilian defense organizational equipment and protective facilities shall constitute a fund which is hereby declared to be the source which the state of Michigan may lawfully devote to the purpose of matching said federal contributions. All gifts or grants so received shall be promptly forwarded to the state treasurer and credited to the general fund and shall be deposited by him in the state treasury, to be disbursed in accordance with the provisions of this act upon approval of release of the appropriation by the state director of civil defense, subject to the approval of the state administrative board.

The state director of civil defense is designated as the official responsible for the general supervisory control of the fund herein established and is authorized to take such steps, subject to the approval of the administrative board, as may be necessary to make federal funds available for the acquisition of civilian defense organizational equipment and for shelters and other protective facilities.

The fund hereby created is hereby appropriated, subject to the approval of the state administrative board for the purposes stipulated in the several gifts or grants whereby the same was accumulated and such federal contributions as may be received are hereby appropriated for the purposes for which granted.

HISTORY: New 1962, p. 552, Act 236, Imd. Eff. Jul. 17.

30.310 Office of civil defense; abolition and transfer of powers, duties and functions to state police.

Sec. 10. All of the powers, duties and functions now vested by law in the Michigan office of civil defense are hereby transferred to and vested in the Michigan state police

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as of July 1, 1962. The Michigan office of civil defense as a separate department of the executive branch of state government is abolished as of June 30, 1962. The Michigan state police commissioner shall occupy the position of director of civil defense and shall be vested with and have the responsibilities of administering and directing state civil defense operations. He shall cooperate with all regional, county and local offices of civil defense as well as with all police and sheriff departments of the state having duties and functions of civil defense operations. The provisions of Act No. 154 of the Public Acts of 1953, as amended, not inconsistent with the provisions of this section shall remain in full force and effect.

Transfer of records, files, and other property.

All the records, files and other property, including property entrusted to the state by the federal government, belonging to the Michigan office of civil defense shall be transferred to the Michigan state police and shall be continued as part of the records, files and property of the Michigan state police.

Transfer of hearings, orders, rules and regulations.

All hearings and proceedings of whatever nature now pending before the Michigan office of civil defense shall not be abated, but shall be transferred to the Michigan state police, without notice to interested parties and shall be conducted in the same manner and determined in accordance with the provisions of laws concerning such hearings and proceedings. All orders, rules and regulations of the Michigan office of civil defense shall continue in effect as though the transfer were not made, and to the extent applicable they shall be binding upon the Michigan state police. The Michigan state police commissioner shall in his discretion have full power and authority to issue orders and promulgate rules and regulations for the purpose of administration and preparation of a plan of civil defense for this state, and shall have full power and authority to amend, alter, vacate or rescind any such orders, rules or regulations now in effect.

Transfer of funds.

All funds, including funds received by the Michigan office of civil defense from the federal government, heretofore allocated and necessary to carry out all the powers, duties and responsibilities of the Michigan office of civil defense are transferred to the Michigan state police. The commissioner of Michigan state police shall charge civil defense funds with all expenses of the Michigan state police which are incurred in the performance of civil defense functions whether incurred by the civil defense division or not. It is the intent of the legislature that civil defense funds be used for all properly chargeable expenses of the Michigan state police, including without limitation, the proportionate share of the costs of operations and communications, traffic and safety, training and personnel and other divisions of the Michigan state police.

HISTORY: New 1962, p. 552, Act 236, Imd. Eff. Jul. 17.

30.310a Civil defense appropriation; allotment prior to executive reorganization.

Sec. 10a. Notwithstanding the provisions of Act No. 125 of the Public Acts of 1958, executive reorganization plan No. 1 of 1962 may be effective by executive order not later than August 1, 1962 and until that date the controller of the department of administration is authorized to allot from the appropriations made in section 1 of this act to the Michigan state police for civil defense purposes such amount as is necessary to operate the Michigan office of civil defense.

HISTORY: New 1962, p. 553, Act 236, Imd. Eff. Jul. 17.

30.321-30.326 Repealed. 1964, p. 395, Act 257, Imd. Eff. Jun. 1.

Sections abolished office of civil defense and transferred its functions to the state police.

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CHAPTER 31. SUCCESSION TO OFFICE

EMERGENCY INTERIM EXECUTIVE SUCCESSION ACT
Act 202 of 1959

31.1 Emergency interim executive succession act; short title.
31.2 Emergency interim executive succession act; definitions.
31.3 Governor; designation of emergency interim successors; review.
31.4 Governor; successor, exercise of powers and discharge of duties.
31.5 State executive officers; successors, designation, review.
31.6 State executive officers; successors, exercise of powers and discharge of duties.
31.7 Emergency successor; qualifications.
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31.13 Emergency successor; duty to keep informed.
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31.15 Disputes arising under act; determination.

EMERGENCY INTERIM LOCAL SUCCESSION ACT
Act 203 of 1959

31.101 Emergency interim local succession act; short title.
31.102 Emergency interim local succession act; definitions.
31.103 Emergency interim local succession; resolutions and ordinances.
31.104 Officers of political subdivision; successors, designation, review.
31.105 Officers of political subdivision; successors, exercise of powers and discharge of duties.
31.106 Emergency successor; qualifications.
31.107 Emergency successor; removal, replacement.
31.108 Emergency succession; notices, form.
31.109 Emergency successor; privileges and immunities in office, compensation, expenses.
31.110 Emergency successor; oath of office.
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31.112 Election to fill vacancy in office.
31.113 Removal of seat of government due to disaster.
31.114 Officers of political subdivision; powers at temporary location.
31.115 Scope of act.

Act 202, 1959, p. 301; Eff. Mar. 19, 1960.

AN ACT to provide, in the event of an emergency resulting from disaster occurring in this state caused by an enemy attack upon the United States or by civil disorder, for prompt and temporary succession to the powers and duties of state executive offices, the incumbents of which may become unavailable for exercising the powers and discharging the duties of such offices. Am. 1969, p. 294, Act 145, Imd. Eff. Jul. 31.

The People of the State of Michigan enact:

31.1 Emergency interim executive succession act; short title.

Sec. 1. This act shall be known and may be cited as the "emergency interim executive succession act".

HISTORY: New 1959, p. 301, Act 202, Eff. Mar. 19, 1960.

31.2 Emergency interim executive succession act; definitions.

Sec. 2. As used in this act:

(a) "Unavailable" means that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of the office because of a vacancy, and his duly authorized deputy are not available to exercise the powers and discharge the duties of the office.

(b) "Disaster" means an extraordinary misfortune caused by an enemy attack upon the United States or by civil disorder and resulting in widespread destruction of life and property.

(c) "Enemy attack" means any attack or series of attacks by a power hostile to the United States which causes or may cause death, injury or substantial damage to the

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people and property in the United States by sabotage, or by the use of bombs, missiles or shells, or any other weapons of conventional, atomic, radiological, chemical, bacteriological, biological or any other nature, process or means.

(d) "State executive officers" means the elected heads of the principal departments of this state.

(e) "Emergency interim successor" means a person designated pursuant to this act who, in the event the incumbent or his deputy is unavailable, is to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by law, or until the lawful incumbent or his deputy is able to resume the exercise of the powers and discharge of the duties of the office.

(f) "Deputy" means any deputy, assistant or other subordinate officer, authorized pursuant to law to exercise all of the powers and discharge the duties of the office.

HISTORY: New 1959, p. 301, Act 202, Eff. Mar. 19, 1960;—Am. 1969, p. 294, Act 145, Imd. Eff. Jul. 31.

31.3 Governor; designation of emergency interim successors; review.

Sec. 3. The governor, taking into consideration the safety factor to be gained by the geographical dispersion of appointments, shall designate within 30 days after his inauguration, 5 emergency interim successors to his powers and duties and specify their order of succession. The governor shall cause a list of these appointments together with their order of succession to be filed with the secretary of state. The governor shall review and, as necessary, revise the designation of emergency interim successors to his powers and duties to insure that at all times there are 5 such qualified emergency interim successors. The governor shall keep the emergency interim successors generally informed as to the duties, procedures, practices and current affairs of his office.

HISTORY: New 1959, p. 302, Act 202, Eff. Mar. 19, 1960;—Am. 1969, p. 294, Act 145, Imd. Eff. Jul. 31.

31.4 Governor; successor, exercise of powers and discharge of duties.

Sec. 4. If the governor, lieutenant governor, the elected secretary of state, the elected attorney general, the president pro tempore of the senate and speaker of the house of representatives are not able or are unavailable to exercise the powers and discharge the duties of the governor because of a disaster, the available emergency interim successor highest in order of succession shall exercise the powers and discharge the duties of the office of governor until a new governor is elected and qualified, or until a preceding named officer becomes available. No emergency interim successor to the aforementioned offices, other than governor, may serve as governor.

HISTORY: New 1959, p. 302, Act 202, Eff. Mar. 19, 1960;—Am. 1969, p. 294, Act 145, Imd. Eff. Jul. 31.

31.5 State executive officers; successors, designation, review.

Sec. 5. All state executive officers, within 30 days after taking office, taking into consideration the safety factor to be gained by geographical dispersion of appointments, shall designate by title 5 emergency interim successors and specify their order of succession. The state executive officers shall file a list of the emergency interim successors, together with their order of succession, with the secretary of state. The state executive officers shall review and, as necessary, revise the designation of emergency interim successors to insure that at all times there are 5 qualified emergency interim successors. A state executive officer shall keep his emergency interim successors generally informed as to the duties, procedures, practices and current affairs of his office.

HISTORY: New 1959, p. 302, Act 202, Eff. Mar. 19, 1960;—Am. 1969, p. 295, Act 145, Imd. Eff. Jul. 31.

31.6 State executive officers; successors, exercise of powers and discharge of duties.

Sec. 6. If any state executive officer is not able or is unavailable to exercise the powers and discharge the duties of the office because of a disaster, the legally authorized deputy of the officer shall exercise the powers and discharge the duties of the office. If

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the deputy is not able or is unavailable to exercise the powers and discharge the duties of the office because of a disaster, the available emergency interim successor, highest in order of succession, shall exercise the powers and discharge the duties of the office. The emergency interim successor shall exercise the powers and discharge the duties until a new officer is appointed or elected and qualified or the regular incumbent of the office or his deputy again becomes available to exercise the powers and discharge the duties of the office.

HISTORY: New 1959, p. 302, Act 202, Eff. Mar. 19, 1960;—Am. 1969, p. 295, Act 145, Imd. Eff. Jul. 31.

31.7 Emergency successor; qualifications.

Sec. 7. No person shall be designated or shall serve as an emergency interim successor under this act unless, under the constitution and the statutes of this state, he may hold the office to which he has been designated.

HISTORY: New 1959, p. 303, Act 202, Eff. Mar. 19, 1960.

31.8 Emergency successor; removal, replacement.

Sec. 8. Until such time as the person designated as an emergency interim successor succeeds to the exercise of the powers and the discharge of the duties of an office in accordance with this act, he may be removed or replaced by said designating authority at any time, with or without cause, by filing notice with the secretary of state.

HISTORY: New 1959, p. 303, Act 202, Eff. Mar. 19, 1960.

31.9 Emergency successor; notice of designation or removal; form, publication.

Sec. 9. All notices to the secretary of state provided for in this act shall be in writing and signed and sworn to by the designating authority. The secretary of state shall inform the governor, the director of the state office of civil defense, the clerk of the house of representatives, the secretary of the senate and all emergency interim successors of all the designations, removals and changes. The clerk of the house of representatives and the secretary of the senate shall publish the notices of designations, removals and changes in the journals of their respective houses, and shall publish therein a complete list of all current designations at the beginning of each legislative session.

HISTORY: New 1959, p. 303, Act 202, Eff. Mar. 19, 1960.

31.10 Emergency successor; determination of availability.

Sec. 10. In the event of a disaster in this state, the governor or the secretary of state, or any deputy or emergency interim successor exercising the powers and discharging the duties of the offices, shall determine if any officer or his deputy is not able or is unavailable to exercise the powers and discharge the duties of an office, and if any officer or deputy is determined to be unavailable, the governor or the secretary of state, or any deputy or emergency interim successor exercising the powers and discharging the duties of the offices, shall inform the next available emergency interim successor so that he may exercise the powers and discharge the duties of the office.

HISTORY: New 1959, p. 303, Act 202, Eff. Mar. 19, 1960;—Am. 1969, p. 295, Act 145, Imd. Eff. Jul. 31.

31.11 Emergency successor; privileges and immunities in office; compensation, expenses.

Sec. 11. When called upon to exercise the powers and discharge the duties of an office, an emergency interim successor shall be accorded the same privileges, immunities and other perquisites accorded to the regular incumbent, but the emergency interim successor shall receive no compensation except his necessary and actual expenses in exercising the powers and discharging the duties of the office. Nothing in this section shall affect in any way the privileges, immunities, compensation, allowances and other perquisites of the regular incumbent.

HISTORY: New 1959, p. 303, Act 202, Eff. Mar. 19, 1960.

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31.12 Emergency successor; oath of office, filing.

Sec. 12. Promptly after his designation in writing to the secretary of state by the designating authority, each emergency interim successor shall take the oath of office for the office to which he has been designated, and no other oath shall be required. The oath shall be administered by any person authorized to administer oaths in this state, and filed with the secretary of state.

HISTORY: New 1959, p. 303, Act 202, Eff. Mar. 19, 1960;—Am. 1969, p. 295, Act 145, Imd. Eff. Jul. 31.

31.13 Emergency successor; duty to keep informed.

Sec. 13. Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices and current affairs of the office to which he has been designated.

HISTORY: New 1959, p. 304, Act 202, Eff. Mar. 19, 1960.

31.14 Emergency successor; termination of authority by legislature, election to fill vacancy.

Sec. 14. The legislature, by law, may terminate at any time the authority of the emergency interim successors to exercise the powers and discharge the duties of an office as herein provided. An election to fill any elective vacancy in an office, the powers of which are being exercised and the duties of which are being discharged by an emergency interim successor, shall be held within 1 year after the date of the disaster under which the emergency interim successor succeeded to the powers and duties of the office.

HISTORY: New 1959, p. 304, Act 202, Eff. Mar. 19, 1960;—Am. 1969, p. 295, Act 145, Imd. Eff. Jul. 31.

31.15 Disputes arising under act; determination.

Sec. 15. Any dispute concerning a question of fact arising under this act, except a dispute of facts relative to the office of governor, shall be determined by the governor or other official authorized under the constitution and this act to exercise the powers and discharge the duties of the office of governor, and his decision shall be final. Any dispute concerning a question of fact arising under this act with respect to the office of governor shall be determined by the chief justice of the supreme court.

HISTORY: New 1959, p. 304, Act 202, Eff. Mar. 19, 1960.

Act 203, 1959, p. 304; Eff. Mar. 19, 1960.

AN ACT to provide, in the event of an emergency resulting from disaster occurring in this state caused by an enemy attack upon the United States, for prompt and temporary succession to the powers and duties of local political subdivision offices, the incumbents of which may become unavailable for exercising the powers and discharging the duties of such offices, by authorizing local political subdivisions to enact resolutions and ordinances relating to continuity of local government; and to authorize local political subdivisions of this state to establish emergency temporary locations for their seats of government and to exercise governmental powers and functions thereat.

The People of the State of Michigan enact:

31.101 Emergency interim local succession act; short title.

Sec. 1. This act shall be known and may be cited as the "emergency interim local succession act".

HISTORY: New 1959, p. 304, Act 203, Eff. Mar. 19, 1960.

31.102 Emergency interim local succession act; definitions.

Sec. 2. As used in this act:

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(a) "Unavailable" means that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of the office because of a vacancy, and his duly authorized deputy are not available to exercise the powers and discharge the duties of the office.

(b) "Disaster" means an extraordinary misfortune caused by an enemy attack upon the United States and resulting in widespread destruction of life and property.

(c) "Enemy attack" means any attack or series of attacks by a power hostile to the United States which causes or may cause death, injury or substantial damage to the people and property in the United States by sabotage, or by the use of bombs, missiles, shells or any other weapons of conventional, atomic, radiological, chemical, bacteriological, biological or any other nature, process or means.

(d) "Office" means any local political subdivision office, the powers and duties of which are defined by the constitution, statute, charter or ordinance, except those in the judiciary, and except those classified under civil service laws.

(e) "Emergency interim successor" means a person designated, pursuant to this act, who, in the event the incumbent or his deputy is unavailable, is to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by law, or until the lawful incumbent or his deputy is able to resume the exercise of the powers and discharge of the duties of the office.

(f) "Deputy" means any deputy, assistant or other subordinate officer authorized, pursuant to law, to exercise all of the powers and discharge the duties of the office.

(g) "Political subdivision" means counties, cities, towns, villages, townships, districts, authorities and other public corporations and entities, whether organized and existing under charter or general law.

HISTORY: New 1959, p. 304, Act 203, Eff. Mar. 19, 1960.

31.103 Emergency interim local succession; resolutions and ordinances.

Sec. 3. Legislative bodies of political subdivisions may enact resolutions or ordinances providing for emergency interim successors to local political subdivision offices, except judicial offices and those offices classified under the civil service laws. Such resolutions and ordinances shall not be inconsistent with the provisions of this act.

HISTORY: New 1959, p. 305, Act 203, Eff. Mar. 19, 1960.

31.104 Officers of political subdivision; successors, designation, review.

Sec. 4. Officers of such political subdivisions, except judicial officers and those whose positions are classified under the civil service laws, within 30 days of the effective date of this act, or in the case of any officer hereafter elected or appointed, within 3 days of his taking office, shall designate by title 5 emergency interim successors and specify their order of succession. The officers shall file a list of such emergency interim successors, together with their order of succession, with the clerk or other recording officer of the political subdivision and with the county clerk. The officer shall review and as necessary promptly revise the designation of emergency interim successors to insure that at all times there are 5 qualified emergency interim successors.

HISTORY: New 1959, p. 305, Act 203, Eff. Mar. 19, 1960.

31.105 Officers of political subdivision; successors, exercise of powers and discharge of duties.

Sec. 5. If any political subdivision officer, other than the judicial officers and those officers classified under the civil service laws, is not able or is unavailable to exercise the powers and discharge the duties of the office because of a disaster in this state caused by an enemy attack upon the United States, the legally authorized deputy of the officer shall exercise the powers and discharge the duties of the office. If the dep-

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uty is not able or is unavailable to exercise the powers and discharge the duties of the office because of a disaster in this state caused by an enemy attack upon the United States, the available emergency interim successor, highest in order of succession, shall exercise the powers and discharge the duties of the office. The emergency interim successor shall exercise the powers and discharge the duties until such time as a new officer is appointed or elected and qualified or the regular incumbent of the office or his deputy again become available to exercise the powers and discharge the duties of said office.

HISTORY: New 1959, p. 305, Act 203, Eff. Mar. 19, 1960.

31.106 Emergency successor; qualifications.

Sec. 6. No person shall be designated or shall serve as an emergency interim successor under this act unless, under the constitution and the statutes of this state and the resolutions and ordinances of the political subdivisions, he may hold the office to which he has been designated.

HISTORY: New 1959, p. 305, Act 203, Eff. Mar. 19, 1960.

31.107 Emergency successor; removal, replacement.

Sec. 7. Until such time as the person designated as an emergency interim successor succeeds to the exercise of the powers and the discharge of the duties of an office in accordance with this act, he may be removed or replaced by the designating authority at any time, with or without cause, by filing notice with the clerk or other recording officer of the political subdivision and with the county clerk.

HISTORY: New 1959, p. 305, Act 203, Eff. Mar. 19, 1960.

31.108 Emergency succession; notices, form.

Sec. 8. All notices provided for in this act shall be in writing and signed and sworn to by the designating authority.

HISTORY: New 1959, p. 306, Act 203, Eff. Mar. 19, 1960.

31.109 Emergency successor; privileges and immunities in office, compensation, expenses.

Sec. 9. When called upon to exercise the powers and discharge the duties of an office, an emergency interim successor shall be accorded the same privileges, immunities and other perquisites accorded to the regular incumbent, but the emergency interim successor shall receive no compensation except his necessary and actual expenses in exercising the powers and discharging the duties of the office. Nothing in this section shall affect in any way the privileges, immunities, compensation, allowances and other perquisites of the regular incumbent.

HISTORY: New 1959, p. 306, Act 203, Eff. Mar. 19, 1960.

31.110 Emergency successor; oath of office.

Sec. 10. Promptly after his designation each emergency interim successor shall take the oath of office for the office to which he has been designated, and no other oath shall be required. The oath shall be administered by any person authorized to administer oaths in this state.

HISTORY: New 1959, p. 306, Act 203, Eff. Mar. 19, 1960.

31.111 Emergency successor; duty to keep informed.

Sec. 11. Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices and current affairs of the office to which he has been designated.

HISTORY: New 1959, p. 306, Act 203, Eff. Mar. 19, 1960.

31.112 Election to fill vacancy in office.

Sec. 12. An election to fill any elective vacancy in an office, the powers of which are being exercised and the duties of which are being discharged by an emergency interim

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successor, shall be held within the year after the date of the enemy attack upon the United States which caused the disaster under which the emergency interim successor succeeded to the powers and duties of the office.

HISTORY: New 1959, p. 306, Act 203, Eff. Mar. 19, 1960.

31.113 Removal of seat of government due to disaster.

Sec. 13. Whenever because of a disaster in this state, due to an enemy attack on the United States, it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the governing body of each political subdivision of this state may meet at any place within or without the territorial limits of the political subdivision on the call of the presiding officer or any 2 members of the governing body, and shall proceed to establish and designate by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary location or locations of government where all or any part of the public business may be transacted and conducted during the emergency situation. The sites or places may be within or without this state.

HISTORY: New 1959, p. 306, Act 203, Eff. Mar. 19, 1960.

31.114 Officers of political subdivision; powers at temporary location.

Sec. 14. During the period when the public business is being conducted at the emergency temporary locations, the governing body and other officers of a political subdivision of this state shall have and possess and shall exercise at such locations all of the executive and legislative powers and functions conferred upon the body and officers by the laws of this state.

HISTORY: New 1959, p. 306, Act 203, Eff. Mar. 19, 1960.

31.115 Scope of act.

Sec. 15. The provisions of this act shall control and be supreme in the event it shall be employed notwithstanding any statutory, charter or ordinance provision to the contrary or in conflict herewith.

HISTORY: New 1959, p. 306, Act 203, Eff. Mar. 19, 1960.

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CHAPTER 32. MILITARY ESTABLISHMENT

MILITARY ESTABLISHMENTS
Act 84 of 1909

32.1-32.33 Repealed.
32.34 Repealed.
32.35 Michigan national guard retired officers list.
32.36-32.41 Repealed.
32.42 Repealed.
32.43-32.45a Repealed.
32.45b Repealed.
32.45c-32.48 Repealed.
32.49 National guard; retirement compensation; temporary service, compensation.
32.49a National guard; retirement age, physical disqualification, eligibility for recommission.
32.49b National guard; officers' retirement pay; application for retirement to retirement boards, findings.
32.49c Retirement pay or pension of military disability or service; evidence of amount, deduction.
32.50-32.53 Repealed.
32.54-32.60 Repealed.
32.61-32.66 Repealed.
32.67 Repealed.
32.68-32.85 Repealed.

NATIONAL EMERGENCY, DUTIES ADJUTANT GENERAL
Act 270 of 1939

32.101 Adjutant general; responsibilities in national emergency.
32.102 Adjutant general; preparation for national emergency in peacetime, approval, effect.

MILITARY COURTS
Act 311 of 1913

32.111-32.116 Repealed.

DISBURSER FOR UNITED STATES FUNDS FOR MILITIA
Act 198 of 1909

32.121 Repealed.

COMPENSATION OF ENLISTED MEN AND OFFICERS
Act 70 of 1917

32.131, 32.132 Repealed.

EQUIPMENT ALLOWANCE
Act 237 of 1909

DISABILITY ALLOWANCE
Act 174 of 1909

32.141-32.153 Repealed.

INTERURBAN AND STREET CAR PRIVILEGES
Act 199 of 1909

32.161, 32.162 Repealed.

ARMORY BUILDING FUND
Act 200 of 1909

32.171 Repealed.

EASEMENTS, ARMORY 182ND FIELD ARTILLERY
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32.181 Armory of 182nd field artillery; authority of state military board as to boundaries, buildings erected, rights of parties.
32.182 Armory of 182nd field artillery; authority of state administrative board in absence of military board.

ERECTION OF ARMORIES
Act 7 of 1912 (2nd Ex. Ses.)

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32.191-32.212 Repealed.

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32.221 Crawford county land; Michigan state military board authority to accept certain lands for state.
32.222 Crawford county land to be given to state; description.
32.223 Crawford county land; uses, abandonment, reversion to donors, removal of buildings, timber rights.
32.223a Camp Grayling facilities; lease by military board, public use.
32.224 Repealed.
32.224a Camp Grayling; authority of military board as to highways leading to reservation.
32.224b Crawford county; lease of dwellings by military board for military personnel.
32.225 Crawford county land; examination and certification of title by attorney general.
32.226 Military lands; legislative appropriations in lieu of payment of taxes.

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Act 28 of 1934 (1st Ex. Ses.)

32.241 Hanson Reservation; transfer of lands and hunting, oil, and mineral rights to state military board.

STATE ARMORY IN DETROIT
Act 345 of 1927

32.251-32.256 Repealed.

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Act 140 of 1953

32.261 State militia; reimbursement of enlisted men for personal expenses.
32.262 Repeal.

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MICHIGAN MILITARY ACT
Act 150 of 1967

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CHAPTER 7

RETIREMENT

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32.851 Repeals.

Act 84, 1909, p. 132; Imd. Eff. May 12.

AN ACT to increase the efficiency of the military establishment of the state of Michigan, to make an appropriation therefor, and to repeal all former acts or parts of acts inconsistent with the provisions of this act.

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The People of the State of Michigan enact:

32.1-32.33 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.
Sections related to the state military establishment.

32.34 Repealed. 1957, p. 469, Act 297, Eff. Sep. 27.
Section related to discharge of military officers for unfitness.

32.35 Michigan national guard retired officers list.

Sec. 35. All officers who shall have served in the Michigan national guard, may, upon their honorable retirement from active service, whether on their own application or otherwise, be carried upon a roll maintained in the office of the adjutant general of the state, designated the list of retired officers of the Michigan national guard.

HISTORY: CL 1915, 910;—Am. 1917, p. 92, Act 53, Imd. Eff. April 17;—CL 1929, 665;—CL 1948, 32.35.

32.36-32.41 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.
Sections related to the state military establishment.

32.42 Repealed. 1957, p. 469, Act 297, Eff. Sep. 27.
Section related to neglect of duty by officers and enlisted men.

32.43-32.45a Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.
Sections related to the state military establishment.

32.45b Repealed. 1970, p. 509, Act 164, Imd. Eff. Aug. 2.
Section provided for quarters, awards and subsistence of militia on active duty.

32.45c-32.48 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.
Sections related to the state military establishment.

32.49 National guard; retirement compensation; temporary service, compensation.

Sec. 49. Notwithstanding any other provisions of this act any officer of the national guard, including also the adjutant general of the state, who shall have completed not less than 15 years service and who is not less than 64 years of age and who is or has been on actual state duty for not less than 10 years, may be retired with annual pay equal to the product of 2 and 1/2 per centum of the active service annual pay to which entitled at the time of his retirement multiplied by a number equal to the years of his active service, not in excess of 30 years: Provided, That the number of years of service to be credited in computing the right to retirement pay shall include all service for or hereafter credited for active duty pay purposes: Provided, That any fractional part of a year amounting to 6 months or more to be counted as a complete year: And provided further, That any officer retired before the completion of 30 years commissioned service may be employed on such active duty as he may be capable of performing until he has completed 30 years commissioned service or reached 64 years of age. Any other officer who shall have completed not less than 15 years service and who is not less than 64 years of age may be retired with annual pay of 480 dollars. Any such officer, when retired under the provisions hereof, shall be eligible for detail to any court constituted under orders of the governor, and for any other specific temporary duty not involving the command of troops, or in an advisory capacity, for periods of not to exceed 15 days without his consent, upon orders of the governor, with pay and allowances of his rank when retired, in any case: Provided, That his retired pay and allowances shall stand suspended during such time as he shall be serving on such actual duty. Any enlisted man who shall have completed not less than 15 years service and who is not less than 64 years of age may be retired with annual pay of 180 dollars.

HISTORY: Add. 1937, p. 374, Act 239, Imd. Eff. July 21;—CL 1948, 32.49.

The history of original section 49 is as follows: Am. 1915, p. 268, Act 157, Imd. Eff. May 7;—CL 1915, 924;—Rep. 1917, p. 83, Act 53, Imd. Eff. April 17.

COMPILERS' NOTE: Section 2 of amendatory Act No. 231 of 1947 provides as follows:

"Sec. 2. The provisions of this amendatory act shall not be deemed nor construed as being applicable to nor as affecting any officer, warrant

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officer or enlisted man, including also any adjutant general, heretofore retired or re-retired with retirement pay under the provisions of section 49 of this act."

CITED IN OTHER SECTIONS: The above section is cited in § 32.831.

32.49a National guard; retirement age, physical disqualification, eligibility for re-commission.

Sec. 49a. The normal age for retirement of officers, warrant officers and enlisted men shall be age 64. Whenever, however, by reason of any federal law, or rule or regulation made pursuant to such law, and applicable to the national guard of Michigan, any officer thereof, including also the adjutant general, shall be determined to be ineligible for further federal recognition as an officer in his then rank or grade or next higher rank or grade by reason of his age, and his commission in the national guard of the United States is terminated, such officer may be placed on the retired list of officers of the Michigan national guard under the same conditions and with like effect as prescribed in section 35 of this act.

Any officer of the Michigan national guard, including also the adjutant general, who, by reason of physical disqualification for further commissioned service, shall have his federal recognition withdrawn and his commission in the national guard of the United States terminated, may be placed on the retired list of officers of the Michigan national guard, under the same conditions and with like effect as prescribed in section 35 of this act.

In the event of any change of physical condition or by reason of any change of federal law, rule or regulation, any such officer so retired shall thereafter again become eligible for a commission in the national guard of Michigan and for federal recognition as such, and shall be again commissioned in the Michigan national guard, his name shall be removed from such retired list without prejudice to him: *Provided, however,* That any officer of the Michigan national guard, either active or retired, being found or becoming eligible for a commission in the same or higher rank in the Michigan national guard or the national guard of the United States, who, without good cause, declines to accept such commission when tendered to him, shall not thereafter be placed, or retained, on the list of retired officers of the Michigan national guard.

HISTORY: Add. 1947, p. 348, Act 231, Eff. Oct. 11;—CL 1948, 32.49a.

32.49b National guard; officers' retirement pay; application for retirement to retirement boards, findings.

Sec. 49b. Officers hereafter retired under the provisions of section 49a of this act who, prior to such retirement, shall have had not less than 20 years active service in the Michigan national guard including not less than 10 years commissioned service, and who shall also have had not less than 10 years of actual duty service as defined in this act, shall, upon reaching age 60 or over age 60 and under age 64, be entitled to and shall be paid retirement pay upon the same basis as is prescribed for officers' retirement pay under the provisions of section 49 of this act, so long as they remain eligible to continue to be enrolled on such retired list: *Provided,* That any other officer retired under the provisions of section 49a, having not less than 20 years service, including not less than 10 years commissioned service, shall, upon reaching age 60, be paid retired pay of $480.00 a year. All officers so retired shall be subject and liable to the same regulations and conditions of temporary or other military service of the state as apply to officers retired under sections 35 and 49 and other pertinent provisions of this act.

Applications for retirement under section 49a and this section shall be referred to special retirement boards of officers detailed by order of the governor, and shall consist of not less than 3 officers and not more than 5 officers, and, if practical, senior in rank to the officer applying for or subject to retirement. Such retirement boards shall perform the same duties with relation to such retirement as are performed by similar

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boards appointed or detailed under the regulations of the regular army of the United States. The findings and recommendations of such retirement boards shall be subject to the approval of the governor in each case.

The retirement or re-retirement of officers, warrant officers and enlisted men of the Michigan national guard, because of reaching age 64, shall continue to be effected under the provisions of section 49 of this act.

HISTORY: Add. 1947, p. 349, Act 231, Eff. Oct. 11;—CL 1948, 32.49b.

32.49c Retirement pay or pension of military disability or service; evidence of amount, deduction.

Sec. 49c. Evidence of the amount of retirement pay or pension provided by the laws of the United States for military disability or military service shall be required before any retired officer of this state, with more than 10 years of actual state duty, shall be paid under the provisions of section 49 or 49b of this act. The amount so evidenced shall be deducted when computing the sum to which the said officer shall be paid by this state: Provided, That this deduction does not operate to deprive any retired officer of a combined total of federal and state retirement pay equal to the provisions of said sections 49 and 49b.

HISTORY: Add. 1952, p. 152, Act 134, Eff. Sep. 18.

32.50-32.53 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Sections related to the state military establishment.

32.54-32.60 Repealed. 1957, p. 469, Act 297, Eff. Sep. 27.

Sections related to the state military establishment.

32.61-32.66 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Sections related to the state military establishment.

32.67 Repealed. 1957, p. 270, Act 214, Imd. Eff. Jun. 6.

Section related to maximum expenditure by the state for an armory.

32.68-32.85 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Sections related to the state military establishment.

Act 270, 1939, p. 500; Eff. Sep. 29.

AN ACT with respect to the activities of the national guard in cases of national emergency; and to prescribe the powers and duties of the adjutant general with respect thereto.

The People of the State of Michigan enact:

32.101 Adjutant general; responsibilities in national emergency.

Sec. 1. When a national emergency shall require the service of citizens of this state in the armed forces of the United States, the adjutant general of Michigan shall, in addition to his other duties, be directly responsible to the secretary of war of the United States for each of the following activities:

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(1) The mobilization of the Michigan national guard and the Michigan naval force for federal service;

(2) The execution of a plan, in cooperation with competent federal authority, for volunteer recruiting within this state;

(3) The execution of a plan, in cooperation with competent federal authority, for the operation of a system of selective service within this state when, and if, the congress of the United States shall enact a statute for the same.

HISTORY: CL 1948, 32.101.

32.102 Adjutant general; preparation for national emergency in peacetime, approval, effect.

Sec. 2. In time of peace, the adjutant general of Michigan shall anticipate such contingencies and shall prepare detailed plans for the effectuation of each of the same. These plans, after having the approval of the war department, shall be submitted to the governor of Michigan and when approved by the governor of Michigan shall have the full force and effect of law.

HISTORY: CL 1948, 32.102.

32.111-32.116 Repealed. 1957, p. 469, Act 297, Eff. Sep. 27.

Sections related to the state military establishment.

32.121 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Section related to bond for disburser of U.S. funds for the militia.

32.131, 32.132 Repealed. 1953, p. 144, Act 140, Imd. Eff. May 29.

Sections related to compensation of enlisted men and officers.

32.141-32.153 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Sections related to allowances for equipment and for injuries to militiamen.

32.161, 32.162 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections related to street car privileges for militia members.

32.171 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Section related to armory building fund.

Act 37, 1943, p. 33; Eff. Jul. 30.

AN ACT authorizing the state military board, or in its absence the state administrative board, to enter into an agreement relating to the boundary line, party walls, and sidetrack easements affecting the armory of the 182nd field artillery.

The People of the State of Michigan enact:

32.181 Armory of 182nd field artillery; authority of state military board as to boundaries, buildings erected, rights of parties.

Sec. 1. The state military board shall have authority on behalf of the state of Michigan to enter into an agreement with the record owner or owners of the parcel of property adjoining on the west the parcel of property at the northwest corner of Brush and Piquette streets in the city of Detroit now owned by the state of Michigan and known as the 182nd field artillery armory. Such agreement may define the boundary line between said parcels of property to accord with the occupancy thereof and the buildings

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erected thereon; may establish the rights and responsibilities of the parties thereto in the walls of said buildings and in the walls between said buildings; and may establish the rights of the parties thereto in the sidetrack easements crossing the northerly part of the armory property.

HISTORY: CL 1948, 32.181.

32.182 Armory of 182nd field artillery; authority of state administrative board in absence of military board.

Sec. 2. During the absence from state jurisdiction of the state military board or a quorum of the same under call or order of the president of the United States, the state administrative board, with the governor as chairman thereof, may exercise the authority herein granted.

HISTORY: CL 1948, 32.182.

32.191-32.212 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Sections related to erection and rental of armories and exchange of armory sites.

Act 172, 1913, p. 315; Imd. Eff. May 2.

AN ACT authorizing the acceptance by the state of a certain tract of land in Crawford county on certain conditions; providing for its control and management when so accepted; making an appropriation for the purpose of making improvements thereon; and providing for payments in lieu of taxes on certain state lands in the counties of Crawford, Kalkaska and Otsego. Am. 1955, p. 341, Act 229, Eff. Oct. 14.

The People of the State of Michigan enact:

32.221 Crawford county land; Michigan state military board authority to accept certain lands for state.

Sec. 1. The military board of the state of Michigan is hereby authorized and empowered to accept from the owner or owners thereof, for and in behalf of the state of Michigan, all those certain pieces or parcels of lands situated in Crawford county in this state, described in section 2 of this act, by deed of gift, in fee simple, free from lien of taxes or other encumbrances, upon the conditions and for the purposes prescribed in section 3 hereof.

HISTORY: CL 1915, 969;—CL 1929, 751;—CL 1948, 32.221.

CITED IN OTHER SECTIONS: Sections 32.221 to 32.226 are cited in § 32.784.

32.222 Crawford county land to be given to state; description.

Sec. 2. The lands mentioned in section 1 hereof are described as follows, to-wit: The east 1/2 of the northeast 1/4 of section 2; east 1/2 of northwest 1/4 of section 2; northwest 1/4 of northwest 1/4 of section 2; west 1/2 of southwest 1/4 of section 2; southeast 1/4 of the southwest 1/4 of section 2; north 1/2 of the southeast 1/4 of section 2; entire section 3; east 1/2 of section 4; southwest 1/4 of section 4; south 1/2 of the northwest 1/4 of section 4; northwest 1/4 of northwest 1/4 of section 4; entire section 5; east 1/2 of southeast 1/4 of section 6; southwest 1/4 of southeast 1/4 of section 6; south 1/2 of northeast 1/4 of section 6; northwest 1/4 of northeast 1/4 of section 6; northeast 1/4 of northwest 1/4 of section 6; east 1/2 of section 7; southwest 1/4 of section 7; southeast 1/4 of northwest 1/4 of section 7; northwest 1/4 of the northwest 1/4 of section 7; northwest 1/4 of section 8; west 1/2 of southwest 1/4 of section 8; southeast 1/4 of southwest 1/4 of section 8; lot 1 of section 8; lot 3 of section 8; northeast 1/4 of section 10; northeast 1/4 of southeast 1/4 of section 10; southeast 1/4 of section 11; north 1/2 of southwest 1/4 of section 11; northwest 1/4 of section 11; west 1/2 of northeast 1/4 of section 11; east 1/2 of section 14; southwest 1/4 of section 14; north 1/2 of northwest 1/4 of section 14; lot 1 section 16; lot 2 section

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16; lot 3 section 16; lot 4 section 16; southwest 1/4 of southeast 1/4 of section 16; south 1/2 of southwest 1/4 of section 16; south 1/2 of southeast 1/4 of section 17; lot 1 section 17; lot 2 section 17; south 1/2 of southwest 1/4 of section 17; northeast 1/4 of southwest 1/4 of section 17; west 1/2 of northeast 1/4 of section 18; northeast 1/4 of northeast 1/4 of section 18; east 1/2 of northwest 1/4 of section 18; northwest 1/4 of northwest 1/4 of section 18; entire section 19; entire section 20; west 1/2 of section 21; lot 1 section 21; lot 2 section 21; lot 3 section 21; lot 4 section 21; lot 4 section 22; south 1/2 of southeast 1/4 section 22; northeast 1/4 of southeast 1/4 of section 22; entire section 23; west 1/2 of section 24; southeast 1/4 of section 24; entire section 25; west 1/2 of section 26; southeast 1/4 of section 26; east 1/2 of northeast 1/4 of section 26; northwest 1/4 of northeast 1/4 of section 26; entire section 27; west 1/2 of section 28; southeast 1/4 of section 28; south 1/2 of northeast 1/4 of section 28; west 1/2 of section 29; southeast 1/4 of section 29; north 1/2 of northeast 1/4 of section 29; east 1/2 of northeast 1/4 of section 30; southwest 1/4 of northeast 1/4 of section 30; northwest 1/4 of southwest 1/4 of section 30; east 1/2 of section 31; east 1/2 of west 1/2 of section 31; northwest 1/4 of northwest 1/4 of section 31; north 1/2 of southwest 1/4 of northwest 1/4 of section 31; entire section 32; west 1/2 of section 33; north 1/2 of southeast 1/4 of section 33; southwest 1/4 of southeast 1/4 of section 33; northeast 1/4 of section 34; east 1/2 of northwest 1/4 of section 34; northwest 1/4 of northwest 1/4 of section 34; north 1/2 of southeast 1/4 of section 34; north 1/2 of northwest 1/4 of section 35; north 1/2 of northeast 1/2 of section 35; southeast 1/4 of northeast 1/4 of section 35, all in town 26 north, range 4 west, in the county of Crawford, state of Michigan, together with such land in said county suitable for the purposes of this act as may be acquired by the donor or donors of said property.

HISTORY: CL 1915, 990;—CL 1929, 752;—CL 1948, 32.222.

32.223 Crawford county land; uses, abandonment, reversion to donors, removal of buildings, timber rights.

Sec. 3. The said tract of land shall be used for the following purposes:

First, As a permanent encampment and maneuvering ground for the militia of this state;

Second, As a game preserve for the breeding and protection of game;

Third, As a forest reserve;

Fourth, For the establishment of fresh air camps, or for other recreational or health giving purposes by any state institution, county, city, village or township.

In case the said tract of land shall be abandoned as a permanent encampment and maneuvering ground for the state militia, the land shall revert to the donor or donors in fee simple, but in case of such reversion, the state shall have the right to take and remove therefrom, any building or other state property that may have been constructed or placed thereon by it, or to sell the same as may be deemed advisable by the board or body having control thereof. The state shall not be deemed to have abandoned said lands or any part thereof by reason of holding any encampment of the said militia at any other place within or without the state when the assembling of such militia elsewhere has been ordered by the President of the United States, the war department or other federal authority having jurisdiction of such forces, or when the safety or the health or lives in the state militia might be prejudiced or endangered by reason of the prevalence of disease or fire in or near said county of Crawford. No abandonment shall be deemed to be complete, unless the proper military authority of the state in time of peace shall have refused or failed for 5 successive years to hold a camp of instruction on said tract of land. As a further condition in the acceptance of the gift of said tract of land, the donor or donors thereof shall be permitted to cut and remove from said land all merchantable timber for and during the period of 5 years next after

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the execution and delivery of the deed conveying said lands to the state of Michigan. All other timber on said lands shall be the property of and be protected by the state. Nothing herein shall be construed as prohibiting the cutting, removal and use of so much of said timber as may be necessary for military purposes, and in the protection of game or in the bettering of forestry on said lands.

HISTORY: CL 1915, 991;—Am. 1919, p. 654, Act 373, Imd. Eff. May 13;—CL 1929, 753;—CL 1948, 32.223.

32.223a Camp Grayling facilities; lease by military board, public use.

Sec. 3a. The state military board may enter into a long term lease with a Michigan corporation for approximately 1200 acres of land at Camp Grayling, under which said corporation will agree to provide reasonable housing and other facilities to train military personnel in skiing and winter warfare. The state military board may agree in any such lease to pay a reasonable rental during the period of use of such facilities by military personnel, within appropriations available to the state military board. When said facilities are not being used by the military personnel, then said facilities shall be available to the general public at reasonable rates. All documents shall be examined by the attorney general both as to form and content.

HISTORY: Add. 1965, p. 658, Act 336, Imd. Eff. Jul. 23.

32.224 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Section provided limited control over certain lands by the quartermaster general.

32.224a Camp Grayling; authority of military board as to highways leading to reservation.

Sec. 4a. The military board is hereby authorized to enter into an agreement or agreements with the township board of the township of Grayling in said county of Crawford, for the construction or repair of the public highways leading into and through the reservation, or to take over from said township any highway approaching or running through the reservation after its construction and repair by the said township, for such consideration as may be agreed upon between the military board and the township board. The military board may alter, straighten, or lay out highways within said reservation and improve such highways, using therefor any moneys to the credit of the military fund not otherwise required for military purposes.

HISTORY: Add. 1915, p. 177, Act 102, Imd. Eff. April 28;—CL 1915, 993;—CL 1929, 755;—CL 1948, 32.224a.

32.224b Crawford county; lease of dwellings by military board for military personnel.

Sec. 4b. In carrying out the intent of section 4 relative to the military board providing suitable lodges or dwellings thereon for the use of such persons or officials as may be necessary in the enforcement of the general land, game, military or forestry laws of the state on the lands, and in carrying out the provisions of section 3 relative to the uses for which the tract of land shall be used, the military board may enter into a lease, not to exceed 25 years, with any private group or organization which will agree to provide suitable lodges or dwellings thereon for the use of such persons or officials and their families as may be necessary. When not in use by such persons or officials, such suitable lodges or dwellings and the equipment, fixtures, devices and contrivances now located on such lands or placed on such lands are to be for the benefit and use of the general public.

HISTORY: Add. 1965, p. 658, Act 336, Imd. Eff. Jul. 23.

32.225 Crawford county land; examination and certification of title by attorney general.

Sec. 5. The attorney general or such of his assistants as he may designate therefor, shall examine the title to all of said lands, and the deed thereto from the donor to the state, and such deed shall not be accepted without the certificate of the attorney gen-

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eral or his duly authorized assistant, that such title has been examined and that the conveyance is sufficient to vest in the state a good and sufficient title thereto free from liens or incumbrances.

HISTORY: CL 1915, 994;—CL 1929, 756;—CL 1948, 32.225.

32.226 Military lands; legislative appropriations in lieu of payment of taxes.

Sec. 6. Notwithstanding any provision of law to the contrary, the tract of land acquired by Act No. 172 of the Public Acts of 1913 for the purpose of a permanent encampment and maneuvering ground for the militia of this state and all other land in Crawford, Kalkaska and Otsego counties now or hereafter owned by the state and controlled by the state military board shall not be subject to taxation but the state, in lieu of taxes, shall pay an annual amount equal to 10 cents an acre for each acre or major fraction thereof. The payment in lieu of taxes of said amount shall be paid annually in December to the treasurers of the respective townships, villages and cities in the counties of Crawford, Kalkaska and Otsego according to the number of acres of such land therein and the respective treasurers shall allocate, distribute and account therefor in the same manner and in the same proportions as the tax millage for that year has been allocated by the county tax allocation board. Payment of such amounts shall be made from appropriations made by the legislature for the operation of the military establishment and the officer having control and management of such lands under section 4 of this act shall cause to be prepared annually in the month of November and delivered to the respective treasurers of the townships, villages and cities in such counties entitled to payments hereunder a complete list of all lands in such several townships, villages and cities and the acreage therein upon which payment is to be made pursuant to this section. A copy of such lists shall be furnished to the county treasurer.

HISTORY: Add. 1954, p. 298, Act 118, Eff. Aug. 13;—Am. 1955, p. 341, Act 229, Eff. Oct. 14.

Original section 6 of Act 172 of 1913, p. 318, was an appropriation section and was repealed by Act 267 of 1945.

Sec. 7. (This was a tax clause section.)

HISTORY: CL 1915, 996;—Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

Act 287, 1919, p. 502; Imd. Eff. May 13.

AN ACT to authorize the use of the Hanson Military Reservation by the state, or any municipal subdivision thereof, as a recreational ground; to regulate such use, and to provide an appropriation.

The People of the State of Michigan enact:

32.231 Hanson Military Reservation; recreational use by public, management.

Sec. 1. The grounds known and designated as the Hanson Military Reservation may hereafter be used by the state, or any municipal subdivision thereof, for recreational purposes, the establishment of fresh air camps, and such other purposes of a recreational or health giving nature as may be incident thereto: Provided, however, That such use shall at no times interfere with the use of said grounds by the military establishment of the state, and no tubercular or venereal patients shall be permitted to use said grounds: And Provided further, That the quartermaster general shall have control and management of said lands, under the supervision of the state military board as provided by law.

HISTORY: CL 1929, 758;—CL 1948, 32.231.

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32.232 Hanson Reservation; use; director, compensation.

Sec. 2. The use of said grounds, for purposes stated in section 1 thereof, shall be under the direction of the state department of health and such board is hereby authorized to appoint some suitable person to have charge thereof under the direction and supervision of said board. The person so appointed shall receive such compensation as shall be determined by said board, such compensation to be paid from the appropriation herein provided.

HISTORY: CL 1929, 759;—CL 1948, 32.232.

32.233 Hanson Reservation; fresh air camps; erection of buildings.

Sec. 3. Any state institution, or any city, village, township or county desiring to establish fresh air camps or to use such grounds for any other recreational or health giving purpose, may by making application to said board, be assigned space on said grounds for such purpose: Provided, however, That no camps, lodges, cottages or other buildings shall be erected thereon without permission for such erection being granted by the state military board.

HISTORY: CL 1929, 760;—CL 1948, 32.233.

32.234 Hanson Reservation; water, lights furnished by state.

Sec. 4. Whenever any space has been so allotted to any state institution, or to any county, city, village or township, it shall be the duty of the military board to see that a proper water supply is furnished the location so allotted; also, to properly light the same.

HISTORY: CL 1929, 761;—CL 1948, 32.234.

32.235 Hanson Reservation; expenses of camps; available military stores.

Sec. 5. All expense connected with the establishment of the camp, or other recreational or health giving purpose, shall be borne by the institution or municipality establishing the same: Provided, however, That the state military board in its discretion may place at the disposal of such institution or municipality any available buildings, tentage or other military stores owned by the state and in the possession of such board.

HISTORY: CL 1929, 762;—CL 1948, 32.235.

32.236 Hanson Reservation; appropriation for expenses; revolving fund; initial expense, refund.

Sec. 6. There is hereby appropriated from the general fund in the state treasury for the state department of health, the sum of 25,000 dollars, from which amount the necessary expenses imposed under this act upon said board shall be paid and the balance thereof shall constitute a revolving fund. The board may expend therefrom the initial expense for establishing such camps or other purposes, which amounts when collected from the institutions or municipalities shall be returned to such fund.

HISTORY: CL 1929, 763;—CL 1948, 32.236.

Sec. 7. (This was a tax clause section.)

HISTORY: Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

Act 28, 1934 (1st Ex. Ses.), p. 104; Imd. Eff. Mar. 28.

AN ACT authorizing the director of conservation to transfer certain lands to the state military board to become a part of the Hanson military reservation; and to provide for their control and disposition.

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The People of the State of Michigan enact:

32.241 Hanson Reservation; transfer of lands and hunting, oil, and mineral rights to state military board.

Sec. 1. The director of conservation is hereby authorized and directed to transfer to the state military board such lands under his control as the state administrative board shall by resolution direct, which lands shall form a part of the Hanson military reservation and shall be supervised and controlled as provided in Act No. 172 of the Public Acts of 1913, except that hunting shall not be prohibited on said lands. The state military board is hereby authorized to exchange any of the lands transferred to it under the provisions of this act for any other lands, oil and mineral rights excepted, whether privately owned or owned by the United States government, within the external boundaries of the Hanson military reservation as hereby enlarged, and is hereby authorized to make all necessary conveyances to effect any such exchanges.

HISTORY: CL 1948, 32.241.

NOTE: Act 172, 1913, above referred to, is Compilers' §§ 32.221-32.226.

32.251-32.256 Repealed. 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

Section authorized purchase of a state armory in Detroit.

Act 140, 1953, p. 144; Imd. Eff. May 29.

AN ACT to increase the efficiency of the military establishment; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

32.261 State militia; reimbursement of enlisted men for personal expenses.

Sec. 1. Each enlisted man of the permanent organized militia who participates in encampments, maneuvers or other outdoor exercises under the provisions of the national defense act of June 3, 1916, or under the provisions of any other enactment of congress having the same or similar objects, shall be reimbursed for personal expenses. The said reimbursement shall be fixed by the state military board in the amount of $2.00 per diem and shall be charged to the appropriations made for the maintenance of the permanent organized militia of this state.

HISTORY: New 1953, p. 144, Act 140, Imd. Eff. May 29.

32.262 Repeal.

Sec. 2. Act No. 70 of the Public Acts of 1917, being sections 32.131 and 32.132, respectively, of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1953, p. 144, Act 140, Imd. Eff. May 29.

Act 133, 1955, p. 197; Imd. Eff. Jun. 7.

AN ACT to provide for the granting of military leaves and providing re-employment protection for officers and enlisted men of the military or naval forces of the state or of the United States.

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The People of the State of Michigan enact:

32.271 Members of military or naval forces; discrimination prohibited.

Sec. 1. No person shall discriminate against any officer or enlisted man of the military or naval forces of the state or of the United States because of his membership therein.

HISTORY: New 1955, p. 197, Act 133, Imd. Eff. Jun. 7.

32.272 Members of military or naval forces; employment discrimination or intimidation prohibited.

Sec. 2. No employer or officer or agent of any corporation, company, or firm, or other person shall discharge any person from employment because of being or performing his duty as an officer or enlisted man of the military or naval forces of this state, or hinder or prevent him from performing any military service or from attending any military encampment or place of drill or instruction, he may be called upon to perform or attend by proper authority, or dissuade any person from enlistment or accepting a commission in the national guard or naval militia by threat of injury to him in respect to his employment, trade, or business in case of his enlistment or acceptance of a commission.

HISTORY: New 1955, p. 197, Act 133, Imd. Eff. Jun. 7.

32.273 Members of military or naval forces; leave of absence from employment for military purposes, reinstatement.

Sec. 3. No employee who requests a leave from his employment shall be denied a leave of absence by his employer for the purpose of being inducted into, entering, determining his physical fitness to enter, or performing training duty as an officer or enlisted man of the military or naval forces of the state or of the United States. Upon his release from such training duty or upon his rejection, such employee shall, if he makes application to his employer for reinstatement within 15 days following his release or rejection, be reinstated in his position without reduction in his seniority, status, or pay.

HISTORY: New 1955, p. 198, Act 133, Imd. Eff. Jun. 7.

32.274 Violation of act, penalty.

Sec. 4. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

HISTORY: New 1955, p. 198, Act 133, Imd. Eff. Jun. 7.

Act 297, 1957, p. 439; Eff. Sep. 27.

AN ACT to provide a uniform code of military justice for the Michigan national guard, not in the service of the United States, and for the Michigan state troops, when the same shall be in existence, and to repeal acts and parts of acts.

The People of the State of Michigan enact:

32.301 Code of military justice; definitions.

Sec. 1. The following terms when used in this act shall be construed in the sense herein indicated unless the context shows that a different sense is intended, namely:

(1) The organized militia of this state shall consist of the army national guard and the air national guard, and when actually in existence, the state troops. The unorganized militia shall consist of all other able-bodied male citizens of this state and all other able-bodied males, resident therein, who have or shall have declared their intention to become citizens of the United States, who shall be 18 or more years of age and not more than 45 years of age. The militia of this state taken collectively shall be known as the state military establishment.

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(2) "Force of the organized militia" means, severally, the army national guard, the air national guard and the state troops, when in existence, and such other forces as may be created by the legislature from time to time pursuant to law;

(3) "Officer" means a commissioned officer as distinguished from a warrant officer or a non-commissioned officer;

(4) "Superior officer" means an officer superior in rank or command;

(5) "Enlisted person" means any person who is serving in an enlisted grade in any force of the organized militia;

(6) "Actual state duty" means full time military duty in the service of this state under an order of the governor and as defined by law;

(7) "Military court" means a court-martial, a court of inquiry, a provost court, or a military commission;

(8) "Law officer" means an officer of a general court-martial detailed in accordance with section 25 of this act.

HISTORY: New 1957, p. 439, Act 297, Eff. Sep. 27.

32.302 Persons subject to act.

Sec. 2. The following persons are subject to the provisions of this act:

All persons belonging to the organized militia and all other persons lawfully called, ordered, drafted or inducted into, or ordered to duty in or with the organized militia, from the dates they are required by the terms of the call, order or other directive to obey the same.

HISTORY: New 1957, p. 440, Act 297, Eff. Sep. 27.

32.303 Persons subject to act; termination of status.

Sec. 3. (a) Subject to the provisions of section 42 of this act, any person charged with having committed, while in a status in which he was subject to this act, an offense for which the person cannot be tried in the courts of the state shall not be relieved from amenability to trial by courts-martial by reason of the termination of such status.

Court-martial for obtaining discharge by fraud.

(b) All persons discharged from the organized militia subsequently charged with having fraudulently obtained said discharge shall, subject to the provisions of section 42 of this act, be subject to trial by court-martial and, after apprehension, shall be subject to this act. Upon conviction of said charge, they shall be subject to trial by court-martial for all offenses under this act committed prior to the fraudulent discharge if the statute of limitations has not run.

Desertion.

(c) Any person who has deserted from the organized militia shall not be relieved from amenability to the jurisdiction of this act by virtue of a separation from any subsequent period of service.

HISTORY: New 1957, p. 440, Act 297, Eff. Sep. 27.

32.304 Officer; dismissal for absence without leave; application for court-martial.

Sec. 4. (a) When any officer, dismissed by order of the governor for absence without leave for a period of 3 months or more, makes written application for trial by court-martial, setting forth under oath that he has been wrongfully dismissed, the governor, as soon as practicable, shall convene a general court-martial to try such officer on the charges on which he was dismissed. A court-martial so convened shall have jurisdiction to try the dismissed officer on such charges, and he shall be held to have waived the right to plead any statute of limitations applicable to the offense with which he is charged. The court-martial may, as a part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence as ad-

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judged, as finally approved or affirmed, does not include dismissal, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issuance.

Administrative discharge.

(b) If the governor fails to convene a general court-martial within 6 months from the presentation of an application for trial under this section, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issuance.

Reappointment.

(c) Where a discharge is substituted for a dismissal under the authority of this section, the governor alone may reappoint the officer to such commissioned rank and precedence as in the opinion of the governor such former officer would have attained had he not been dismissed. The reappointment of such former officer may be made provided a position vacancy is available under applicable tables of organization. All time between the dismissal and such reappointment shall be considered as service for all state purposes.

Right to trial, time.

(d) When an officer is discharged from the organized militia by administrative action or is dropped from the rolls by order of the governor, there shall be a right to trial under this act, only if requested in writing of the governor not later than 60 days from date of discharge.

HISTORY: New 1957, p. 440, Act 297, Eff. Sep. 27.

32.305 Code of military justice; application.

Sec. 5. (a) This code shall be applicable to all places within the state. It shall also apply to all persons subject to this code while serving without the state and while going to and returning from such service without the state in like manner and to the same extent as while such persons are serving within the state.

(b) Courts-martial and courts of inquiry may be convened and held in units of the organized militia while serving without the state with the same jurisdiction and powers as if held within the state and offenses committed without the state may be tried and punished either without the state or within the state.

HISTORY: New 1957, p. 441, Act 297, Eff. Sep. 27.

32.306 State judge advocate; duties as to field inspection.

Sec. 6. (a) The state judge advocate, or his assistants, shall be directed to make timely inspections in the field in supervision of the administration of military justice in the organized militia.

Staff judge advocate.

(b) Convening authorities shall at all times communicate directly with their staff judge advocates or legal officers in matters relating to the administration of military justice; and the staff judge advocate or legal officer of any command is authorized to communicate directly with the judge advocate or a superior or subordinate command, or with the state judge advocate.

Disqualified personnel for review.

(c) No person who has acted as a member, law officer, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel or investigating officer in any case shall subsequently act as a staff judge advocate or legal officer to any reviewing authority upon the same case.

HISTORY: New 1957, p. 441, Act 297, Eff. Sep. 27.

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32.307 Apprehension of person subject to code.

Sec. 7. (a) Apprehension is the taking into custody of a person.

(b) Any person authorized under regulation issued pursuant to this act to apprehend persons subject to this code, any marshal of a court-martial appointed pursuant to the provisions of this act and any peace officer defined in laws of this state may apprehend persons subject to this code upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(c) All officers, warrant officers and non-commissioned officers shall have authority to quell all quarrels, forays and disorders among persons subject to this code and to apprehend persons subject to this code who take part in the same.

(d) Except as otherwise specifically provided in this act, no peace officer or marshal of a court-martial shall demand or require payment of any fee or charge of any nature for apprehending or placing in confinement any person subject to this code.

HISTORY: New 1957, p. 441, Act 297, Eff. Sep. 27.

32.308 Apprehension of deserter; delivery by civil officer to militia.

Sec. 8. It shall be lawful for any civil officer having authority to apprehend offenders under the laws of the United States or of any state, district, territory or possession of the United States summarily to apprehend a deserter from the organized militia and deliver him to the custody of the organized militia.

HISTORY: New 1957, p. 442, Act 297, Eff. Sep. 27.

32.309 Arrest or confinement for probable cause.

Sec. 9. (a) Arrest is the restraint of a person by an order not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted person may be ordered apprehended or into arrest or confinement by any officer by an order, oral or written, delivered in person or through other persons subject to this code, or through any person authorized by this code to apprehend persons. A commanding officer may authorize warrant officers or non-commissioned officers to order enlisted persons of his command or subject to his authority into arrest or confinement.

(c) An officer or a warrant officer may be ordered into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another officer. The authority to order such person into arrest or confinement may not be delegated.

(d) No person shall be ordered into arrest or confinement except for probable cause.

(e) Nothing in this section shall be construed to limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

HISTORY: New 1957, p. 442, Act 297, Eff. Sep. 27.

32.310 Accusation; trial.

Sec. 10. Any person subject to this code charged with an offense under this code shall be ordered apprehended or into arrest or confinement, as circumstances may require. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or dismiss the charges and release him.

HISTORY: New 1957, p. 442, Act 297, Eff. Sep. 27.

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32.311 Confinement and imprisonment; location.

Sec. 11. Confinement and imprisonment other than in guard house, whether prior to, during or after trial by a military court, shall be executed in jails, penitentiaries or prisons designated by the governor or by the adjutant general for that purpose.

HISTORY: New 1957, p. 442, Act 297, Eff. Sep. 27.

32.312 Commitment to prison; written statement of charges; report to commanding officer.

Sec. 12. (a) No provost marshal, commander of a guard, warden, keeper or officer of a city or county jail or any other jail, penitentiary or prison designated by the governor or the adjutant general under section 11 of this act, shall refuse to receive or keep any prisoner committed to his charge when the committing person furnishes a statement signed by him, of the offense charged against the prisoner.

(b) Every commander of a guard, warden, keeper or officer of a city or county jail or any other jail, penitentiary or prison designated by the governor or the adjutant general under section 11 of this act, to whose charge a prisoner is committed shall, within 24 hours after such commitment or as soon as he is relieved from guard, report to the commanding officer of the prisoner, the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

HISTORY: New 1957, p. 442, Act 297, Eff. Sep. 27.

32.313 Arrest or confinement pending trial; infractions of discipline.

Sec. 13. Subject to the provisions of section 56 of this act, no person, while being held for trial or the results of trial, shall be subject to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during such period for infractions of discipline.

HISTORY: New 1957, p. 442, Act 297, Eff. Sep. 27.

32.314 Military offenses subject to court-martial; offenses excluded; conflict of military and civil jurisdiction, interruption of sentence.

Sec. 14. It is the intent of the legislature that trial by court-martial shall be limited to military offenses including fraudulent enlistment, appointment or separation; unlawful enlistment, appointment or separation; desertion; absence without leave; missing movement; contempt toward officials, disrespect toward superior officer; assaulting or willfully disobeying superior officer; insubordinate conduct toward noncommissioned officer; failure to obey rule or regulation; cruelty and maltreatment; mutiny or sedition; wrongful arrest and confinement; releasing prisoners without proper authority; unlawful detention, non-compliance with procedural rules; misbehavior before the enemy; subordinate compelling surrender; improper use of the countersign; forcing a safe-guard; wrongful use or disposition of captured or abandoned property; aiding the enemy; misconduct as a prisoner; false official statement; loss, damage, destruction or wrongful disposition of military property; waste, spoil, or destruction of other than military property; improper hazarding a vessel; drunken or reckless driving of military vehicles; drunkenness or misbehavior on duty; dueling; malingering; riot or breach of the peace; provoking speeches or gestures; frauds against the government connected with military duty or operations; conduct unbecoming an officer and gentleman; and other general acts or omissions to the prejudice of good order and military discipline. Courts-martial convened pursuant to this act shall have no jurisdiction to try military persons for murder, manslaughter, rape, larceny and wrongful appropriation of other than military property, robbery, forgery, maiming, sodomy, arson, extortion, burglary, housebreaking, perjury except in connection with trial by court-martial, or other crimes and offenses denounced by the sub-

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stantive criminal laws of this state, except, however, when as the result of invasion, insurrection or other catastrophe, or when military government shall have been substituted for civil government, the jurisdiction of courts-martial shall not be so limited, and once jurisdiction has attached, it shall continue until trial by court-martial has been completed and sentence adjudged. When a person subject to this code is charged with the commission of any offense other than a military offense as hereinbefore mentioned in this section, and is hereinafter described in sections 76 through 112, he shall be promptly surrendered to the civil authority to be dealt with according to the civil law and, while in the hands of civil authority under such circumstances, he shall be considered as properly absent from his military duties. In case of conflict or contention as to jurisdiction over military persons, as between the civil and military authority, it is the intent of the legislature that such difference be resolved in favor of the civil authority. When delivery under this section is made to any civil authority of a person then undergoing a sentence of a court-martial, such delivery, if followed by conviction in a civil court, shall be held to interrupt the execution of the sentence of the court-martial, and the offender, after having answered to the civil authorities for his offense shall, upon the request of the adjutant general, be returned to military custody for the completion of the said court-martial sentence.

HISTORY: New 1957, p. 443, Act 297, Eff. Sep. 27.

32.315 Minor offenses without court-martial; disciplinary punishment.

Sec. 15. (a) Under such regulations as may be issued pursuant to this act, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose 1 of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

Upon officers and warrant officers of his command: Withholding of privileges for a period not to exceed 2 consecutive weeks; or restriction to certain specified limits, with or without suspension from duty, for a period not to exceed 2 consecutive weeks; of if imposed by the governor, the commanding officer of a force of the organized militia or the commanding general of a division, forfeiture of pay and allowances not exceeding $75.00.

Upon other military personnel of his command: Withholding of privileges for a period not to exceed 2 consecutive weeks; or restriction to certain specified limits, with or without suspension from duty, for a period not to exceed 2 consecutive weeks; or extra duties for a period not to exceed 2 consecutive weeks; reduction to the next inferior grade if the grade from which demoted was established by the command or an equivalent or lower command; or if imposed upon a person attached to or embarked in a vessel, confinement for a period not to exceed 7 consecutive days; or if imposed by an officer exercising special court-martial jurisdiction, forfeiture of pay and allowances not exceeding $10.00.

Limitations.

(b) Under such regulations as may be issued pursuant to this code, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers authorized to exercise such powers, and the applicability of this section to an accused on actual state duty who demands trial by court-martial.

Minor offenses of enlisted persons.

(c) An officer in charge may, for minor offenses, impose on enlisted persons assigned to the unit of which he is in charge, such of the punishments authorized to be imposed by commanding officers as may be specifically prescribed by regulations issued pursuant to this code.

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Appeal.

(d) A person punished under authority of this section who deems his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. This appeal shall be promptly forwarded and decided, but the person punished shall not in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, his successor in command, and superior authority shall have power to suspend, set aside, or remit any part or amount of the punishment and to restore all rights, privileges, and property affected.

Disciplinary punishment; court-martial; punishment.

(e) The imposition and enforcement of disciplinary punishment under authority of this section for any act or omission shall not be a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

Forfeiture of pay or allowance.

(f) Whenever a punishment of forfeiture of pay and allowance is imposed as provided in this section, the forfeiture may apply to pay or allowance becoming due on or after the date of such punishment as imposed and to any pay and allowances accrued before such date.

HISTORY: New 1957, p. 443, Act 297, Eff. Sep. 27.

32.316 Courts-martial; types.

Sec. 16. There shall be 3 kinds of courts-martial in each of the forces of the organized militia, namely:

General.

(a) General courts-martial, which shall consist of a law officer and any number of members not fewer than 5;

Special.

(b) Special courts-martial, which shall consist of any number of members not fewer than 3; and

Summary.

(c) Summary courts-martial, which shall consist of 1 officer.

HISTORY: New 1957, p. 444, Act 297, Eff. Sep. 27.

32.317 General courts-martial; jurisdiction, sentencing power.

Sec. 17. General courts-martial shall have jurisdiction to try persons subject to this act for any offense for which they may be punished by this code and shall have the power to adjudge and sentence to: Confinement with hard labor for not exceeding 200 days; fines not exceeding $200.00; confinement with hard labor in lieu of fines imposed not exceeding 1 day for each $1.00 of the fine imposed; forfeiture of pay and allowances, due or to become due, not exceeding $200.00; dismissal; dishonorable discharge; bad conduct discharge; reprimand, reduction of non-commissioned officers to the ranks; and to combine any 2 or more of such punishments in the sentences imposed.

HISTORY: New 1957, p. 445, Act 297, Eff. Sep. 27.

32.318 Special courts-martial; jurisdiction, sentencing power.

Sec. 18. Special courts-martial shall have jurisdiction to try persons subject to this code for any offense for which they may be punished by this code. Special courts-martial shall have the power to sentence to: Confinement with hard labor for not exceeding 100 days; fines not exceeding $100.00; confinement with hard labor in lieu of

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fines imposed not exceeding 1 day for each $1.00 of fine imposed; forfeiture of pay not exceeding $100.00; bad conduct discharge, reprimand; reduction of non-commissioned officers to an inferior grade; and to combine any 2 or more of such punishments in the sentences imposed. A bad conduct discharge shall not be adjudged unless a complete record of the proceedings and testimony before the court has been made.

HISTORY: New 1957, p. 445, Act 297, Eff. Sep. 27.

32.319 Summary courts-martial; jurisdiction, sentencing power.

Sec. 19. (a) Summary courts-martial shall have jurisdiction to try persons subject to this code, except officers and warrant officers, for any offense for which they may be punished by this code.

(b) No person on actual state duty with respect to whom courts-martial have jurisdiction shall be brought to trial before a summary court-martial if he objects thereto, unless he has been permitted and has elected to refuse punishment under the provisions of section 15. Where objection to trial by summary court-martial is made by such an accused who has not been permitted to refuse punishment under section 15, trial shall be ordered by special or general court-martial, as may be appropriate.

(c) Summary courts-martial shall have the power to sentence to: Confinement with hard labor for not exceeding 25 days; fines not exceeding $25.00; confinement with hard labor in lieu of fines imposed not exceeding 1 day for each $1.00 of fine imposed; forfeiture of pay, due or to become due, not exceeding $25.00; reprimand, reduction of non-commissioned officers to an inferior grade; and to combine any 2 or more of such punishments in the sentences imposed.

HISTORY: New 1957, p. 445, Act 297, Eff. Sep. 27.

32.320 Military commissions, provost courts and other military tribunals; concurrent jurisdiction.

Sec. 20. The provisions of this act conferring jurisdiction upon courts-martial shall not be construed as depriving military commissions, provost courts, efficiency boards or other military tribunals of concurrent jurisdiction in respect to offenders or offenses that by statute or by law of war may be tried by such military commissions, provost courts, efficiency boards or other military tribunals. The jurisdiction of courts-martial is, however, limited to the trial of persons accused of military offenses as described in this act. Persons of the organized militia of this state, in an actual or active state duty status, who are accused of offenses cognizable by the civil courts of this state, may, upon accusation, be promptly surrendered to civil authorities for disposition, exigencies of the service considered.

HISTORY: New 1957, p. 445, Act 297, Eff. Sep. 27.

32.321 General courts-martial; convening.

Sec. 21. General courts-martial may be convened by the governor, or any other commanding officer in any force of the organized militia, who is not an accuser, when so empowered by the governor.

HISTORY: New 1957, p. 445, Act 297, Eff. Sep. 27.

32.322 Special courts-martial; convening.

Sec. 22. (a) Special courts-martial may be convened by any person who may convene a general court-martial; the commanding officer of a garrison, fort, camp, armory, air base or other place where members of a force of the organized militia are on duty; by the commanding officer of a division, brigade, regiment, detached or separate battalion or corresponding unit of the army national guard; the commanding officer of a wing, group, detached or special squadron of the air national guard; the commanding officer of any separate or detached command or group of detached units of any of

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the forces of the organized militia placed under a single commander; or the commanding officer or officer in charge of any other command when empowered by the adjutant general.

(b) When any such officer is the accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority when deemed advisable by him.

HISTORY: New 1957, p. 446, Act 297, Eff. Sep. 27.

32.323 Summary courts-martial; convening.

Sec. 23. (a) Summary courts-martial may be convened by any person who may convene a general or special court-martial; the commanding officer of a detached or separate company or corresponding unit or detachment of a force of the organized militia; the commanding officer of any other command when empowered by the adjutant general.

(b) When but one officer is present with a command or detachment he shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him. Summary courts-martial may, however, be convened in any case by superior competent authority when deemed desirable by him.

HISTORY: New 1957, p. 446, Act 297, Eff. Sep. 27.

32.324 Officers; eligibility to serve on courts-martial.

Sec. 24. (a) Any officer of the organized militia shall be eligible to serve on all courts-martial for the trial of any person who may be lawfully brought before such courts for trial except that a member of the state troops shall not be eligible to serve on a court-martial for the trial of a member of the national guard.

Warrant officers.

(b) Any warrant officer of the organized militia shall be eligible to serve on general or special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial except that a member of the state troops shall not be eligible to serve on a court-martial for the trial of a member of the national guard.

Enlisted persons.

(c) Any enlisted person of the same force of the organized militia who is not a member of the same company or detachment, or comparable sized unit as the accused, shall be eligible to serve on general or special courts-martial for the trial of any enlisted person who may be lawfully brought before such courts for trial, but he shall serve as a member of a court only if, prior to the convening of such court, the accused has personally requested in writing that enlisted persons serve on it. After such a request, no enlisted person shall be tried by a general or special court-martial the membership of which does not include enlisted persons of a number comprising at least 1/3 of the total membership of the court, unless eligible enlisted men cannot be obtained on account of physical conditions or military exigencies. Where such persons cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to and made a part of the record, stating why they could not be obtained. For the purposes of this section, the word "unit" shall mean a duly organized body of the organized militia not larger than a company of the army force, a squadron of the air force or a body corresponding to one of them. When it can be avoided, no person subject to this code shall be tried by a court-martial any member of which is junior to him in rank or grade. When convening a court-martial, the convening authority shall appoint as members thereof such persons as, in his opinion, are best qualified for the duty by reason of age, education, training, experience, length of service and judicial temperament. No person

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shall be eligible to sit as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

HISTORY: New 1957, p. 446, Act 297, Eff. Sep. 27.

32.325 Law officers of general court-martial; qualifications, eligibility; consultation with members of court restricted.

Sec. 25. The authority convening a general court-martial shall appoint as law officer thereof a commissioned officer who is an active member of the bar of this state. No person shall be eligible to act as law officer in a case when he is the accuser or a witness for the prosecution or has acted as investigating officer or counsel in the same case. The law officer shall not consult with the members of the court, other than on the form of findings as provided in section 38 of this act, except in the presence of the accused, trial counsel and defense counsel, nor shall he vote with the members of the court.

HISTORY: New 1957, p. 447, Act 297, Eff. Sep. 27.

32.326 Courts-martial; trial counsel, defense counsel and assistants; appointment, qualifications.

Sec. 26. For each general and special court-martial the authority convening the court shall appoint a trial counsel and a defense counsel, both of whom shall, if possible, be of equal grade together with such assistants as he deems necessary or appropriate. No person who has acted as investigating officer, law officer, or court member in any case shall act subsequently as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution shall act subsequently in the same case for the defense, nor shall any person who has acted for the defense act subsequently in the same case for the prosecution. Any person who is appointed trial counsel or defense counsel in the case of a general court-martial shall be a judge advocate of the army national guard, air national guard or state troops or an active member of the bar of a state of the United States. In the case of a special court-martial, if the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel appointed by the convening authority shall be a person similarly qualified. If the trial counsel is a judge advocate or an active member of the bar of this state, the defense counsel shall likewise be one of the foregoing.

HISTORY: New 1957, p. 447, Act 297, Eff. Sep. 27.

32.327 Courts-martial; court reporters and interpreters.

Sec. 27. Under such regulations as the adjutant general shall prescribe, the convening authority of a court-martial, military commission, court of inquiry or efficiency board shall appoint a qualified court reporter who shall record the proceedings of and testimony taken before such court, commission or board. Under like conditions the convening authority of a court-martial, military commission, court of inquiry or efficiency board may appoint an interpreter who shall interpret for the court, commission or board.

HISTORY: New 1957, p. 447, Act 297, Eff. Sep. 27.

32.328 Courts-martial; absence of members, procedure.

Sec. 28. No member of a general or special court-martial shall be excused or absent from sessions of the court in any case after the accused has been arraigned except for physical disability or as the result of a challenge or by order of the convening authority for good cause. Whenever a general court-martial is reduced below 5 members, the trial shall not proceed unless the convening authority appoints new members sufficient in number to provide not fewer than 5 members. When such new members have been sworn, and opportunity to challenge them has been given, the trial may proceed

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after the substance of all proceedings had shall have been made known to them and the recorded testimony of each witness previously examined has been read to the court thus constituted in the presence of the law officer, the accused and counsel. When a special court-martial is reduced below 3 members, the trial may not proceed unless the convening authority appoints new members sufficient in number to provide not fewer than 3 members. When such new members have been sworn, the trial shall proceed as if no evidence had previously been introduced, unless a verbatim record of testimony of previously examined witnesses, or a stipulation thereof is read to the court in the presence of accused and counsel.

HISTORY: New 1957, p. 447, Act 297, Eff. Sep. 27.

32.329 Courts-martial; preferment of charges.

Sec. 29. Charges and specifications shall be signed by a person subject to this code under oath before a person authorized by this act to administer such oaths and shall state: That the signer has personal knowledge of, or has investigated, the matters set forth therein; and that the same are true in fact to the best of his knowledge and belief. Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him as soon as is practicable.

HISTORY: New 1957, p. 448, Act 297, Eff. Sep. 27.

32.330 Self-incrimination; evidence obtained by coercion; unlawful influence or inducement prohibited.

Sec. 30. No person subject to this code shall compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him. No person subject to this code shall interrogate, or request any statement from, an accused person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial. No person subject to this code shall compel any person to make a statement or produce evidence before any military tribunal or board if the statement or evidence is not material to the issue and may tend to degrade him. No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence or unlawful inducement shall be received in evidence against him in a trial by court-martial.

HISTORY: New 1957, p. 448, Act 297, Eff. Sep. 27.

32.331 General court-martial; preliminary investigation, report, rights of accused, further investigation, jurisdiction.

Sec. 31. No charge or specification shall be referred to a general court-martial for trial until a thorough and impartial investigation shall have been made. The report of the investigating officer shall include his comment and conclusions with respect to all allegations recited in the charges, the form thereof, and any other comment which would assist in determining the disposition which should be made of the case. The investigating officer may make any recommendation he deems pertinent and proper. The investigating officer shall be appointed by the officer next superior, in the chain of command, to the commanding officer of the accused. The accused shall be advised of the charges against him and of his right to be represented at such investigation by counsel. Upon his own request he shall be represented by civilian counsel if provided by him, at his own expense, or by military counsel of his own selection, without expense to himself, if such counsel be reasonably available, or by counsel appointed by the officer exercising general court-martial jurisdiction over the command. At such investigation full opportunity shall be given to the accused to cross-examine witnesses

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against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after such investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused. If an investigation of the subject matter of an offense has been conducted prior to the time the accused is charged with the offense, and if the accused was present at such investigation and afforded the opportunity for representation, cross-examination, and presentation heretofore prescribed in this section, no further investigation of that charge is necessary under this section unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witness for further cross-examination and to offer any new evidence in his own behalf. The requirements of this section shall be binding on all persons administering this code, but failure to follow them in any case shall not divest a military court of jurisdiction.

HISTORY: New 1957, p. 448, Act 297, Eff. Sep. 27.

32.332 General court-martial; report of investigation, filing.

Sec. 32. When a person is held for trial by general court-martial, the commanding officer shall, within 8 days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the report of investigation and allied papers, to the officer exercising general court-martial jurisdiction. If the same is not practicable, he shall report in writing to such officer the reasons for delay.

HISTORY: New 1957, p. 449, Act 297, Eff. Sep. 27.

32.333 General court-martial; change in charges or specifications.

Sec. 33. Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the state judge advocate or to his staff judge advocate, as may be appropriate, for consideration and advice. The convening authority shall not refer a charge to a general court-martial for trial unless he has found that the charge alleges a military offense under this code, and is warranted by evidence indicated in the report of investigation. If the charges or specifications are not correct in form or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and such changes in the charges and specifications as are needed to make them conform to the evidence may be made.

HISTORY: New 1957, p. 449, Act 297, Eff. Sep. 27.

32.334 Court-martial; service of charges.

Sec. 34. The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. No person shall, against his objection, be brought to trial before a general court-martial within a period of 5 days subsequent to the service of the charges upon him, or before a special court-martial within a period of 3 days subsequent to the service of the charges against him.

HISTORY: New 1957, p. 449, Act 297, Eff. Sep. 27.

32.335 Court-martial; procedures, modes of proof; regulation by governor.

Sec. 35. The procedure, including modes of proof, in cases before court-martial, courts of inquiry, military commissions and efficiency boards, may be prescribed by the governor by regulations issued pursuant to this act which shall, so far as he deems practicable, apply to the forms and modes of procedure, the principles of law and the rules of evidence generally recognized in the trial of cases in the courts-martial of the United States, but which shall not be contrary to or inconsistent with the provisions of this act.

HISTORY: New 1957, p. 449, Act 297, Eff. Sep. 27.

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32.336 Courts-martial; censure, reprimand, admonition or coercion by convening authority prohibited.

Sec. 36. No authority convening a general, special or summary court-martial, or any other commanding officer, shall censure, reprimand, or admonish such court or any member, law officer or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its functions in the conduct of the proceeding. Nor shall the convening authority take any administrative action against any such member, law officer or counsel with respect to any matter related to their several functions as officers of the court. No person subject to this code shall attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or board or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving or reviewing authority with respect to his judicial acts.

HISTORY: New 1957, p. 449, Act 297, Eff. Sep. 27.

32.337 General or special court-martial; trial counsel, prosecution and records.

Sec. 37. The trial counsel of a general or special court-martial shall prosecute in the name of the people of the state of Michigan and shall, under the direction of the court, prepare the record of the proceedings.

Defense counsel; appointment, civilian counsel.

The accused shall have the right to be represented in his defense before a general or special court-martial by civilian counsel, if provided by him at his own expense, or by military counsel of his own selection if reasonably available, or by the defense counsel duly appointed pursuant to section 26 of this act. Should the accused have counsel of his own selection, the duly appointed defense counsel, and assistant counsel, if any, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the president of the court.

Same; objection to record.

In every court-martial proceeding, the defense counsel may, in the event of a conviction, forward for attachment to the record of proceedings, a brief of such matters as he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he may deem appropriate.

Assistant trial counsel, duties.

An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by section 26 of this act, perform any duty imposed by law, regulation, or custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

Assistant defense counsel, duties.

An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by section 26 of this act, perform any duty imposed by law, regulation or custom of the service upon counsel for the accused.

HISTORY: New 1957, p. 449, Act 297, Eff. Sep. 27.

32.338 General or special court-martial; vote; findings, consultation.

Sec. 38. Whenever a general or special court-martial is to deliberate or vote, only the members of the court shall be present. After a general court-martial has finally voted on the findings, the court may request the law officer and the reporter to appear before the court and put the findings in proper form, and such proceedings shall be on the record. All other proceedings, including any other consultation with the court with

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counsel or the law officer shall be made a part of the record and be in the presence of the accused, the defense counsel, and, in general court-martial cases, the law officer.

HISTORY: New 1957, p. 450, Act 297, Eff. Sep. 27.

32.339 Court-martial; continuance.

Sec. 39. A court-martial may for reasonable cause grant a continuance to any party for such time and as often as may appear to be just.

HISTORY: New 1957, p. 450, Act 297, Eff. Sep. 27.

32.340 Challenge of members of general or special court-martial and law officer; peremptory challenges.

Sec. 40. (a) Members of a general or special court-martial and the law officer of a general court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The court shall determine the relevancy and validity of challenges for cause, and shall not receive a challenge to more than 1 person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered. A member of the court who is challenged for cause shall abstain from voting on the question of the challenge. A tie vote shall sustain a challenge.

(b) Each accused and trial counsel shall be entitled to 1 peremptory challenge, but the law officer shall not be challenged except for cause.

HISTORY: New 1957, p. 450, Act 297, Eff. Sep. 27.

32.341 Oath or affirmation required.

Sec. 41. The law officer, all interpreters, and, in general and special courts-martial, the members, the trial counsel, assistant trial counsel, the defense counsel, assistant defense counsel, and the reporter shall take oath or affirmation in the presence of the accused to perform their duties faithfully. All witnesses before courts-martial shall be examined on oath or affirmation.

HISTORY: New 1957, p. 450, Act 297, Eff. Sep. 27.

32.342 Offenses during state of emergency; preferment of charges without period of limitation.

Sec. 42. (a) A person charged with desertion or absence without leave in time of war or when the governor of this state shall, by proclamation, have declared a grave state emergency, or with aiding the enemy, mutiny, or treason, may be tried and punished at any time without limitation.

1-year limitation offenses.

(b) Except as otherwise provided in this section, a person charged with desertion in time of peace or any of the offenses punishable under sections 72 through 112 of this act, shall not be liable for trial by court-martial if the offense was committed more than 1 year before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

2-year limitation offenses.

(c) Except as otherwise provided in this section, a person charged with any offense shall not be liable to be tried by court-martial or punished under section 15 if the offense was committed more than 2 years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section 15 of this act.

Computation of period of limitation.

(d) Periods in which the accused was absent from territory in which the state has authority to apprehend him, or in custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

HISTORY: New 1957, p. 451, Act 297, Eff. Sep. 27.

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34.343 Double jeopardy prohibited.

Sec. 43. (a) No person subject to this code shall, without his consent, be tried a second time by a civil court or a military court of the state for the same offense.

Completion of trial.

(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification shall be held to be a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

"Trial" construed.

(c) A proceeding which, subsequent to the introduction of evidence but prior to a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused shall be a trial in the sense of this section.

HISTORY: New 1957, p. 451, Act 297, Eff. Sep. 27.

34.344 Plea of not guilty.

Sec. 44. If an accused arraigned before a court-martial makes any irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record and the court shall proceed as though he had pleaded not guilty.

HISTORY: New 1957, p. 451, Act 297, Eff. Sep. 27.

32.345 Witnesses; service of process.

Sec. 45. The trial counsel, defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with regulations approved by the governor pursuant to this act. Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the state and to any other state in which the court-martial may be sitting.

HISTORY: New 1957, p. 451, Act 297, Eff. Sep. 27.

32.346 Witnesses; subpoena, failure to appear or produce books and records, punishment.

Sec. 46. Every person subject to this code who:

(a) Has been duly subpoenaed to appear as a witness or to produce books and records before any court-martial, military commission, court of inquiry or efficiency board, or before any military or civil officer designated to take a deposition to be read in evidence before such court-martial, military commission, court of inquiry or efficiency board; and

(b) Has been duly paid or tendered the fees and mileage of a witness at rates allowed to witnesses attending circuit courts of this state; and

(c) Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which such person may have been duly subpoenaed to produce, shall be deemed to be guilty of an offense against the state and may be punished by the court-martial, military commission, court of inquiry or efficiency board which issues the subpoena or subpoena duces tecum in the same manner and to the same extent as provided for failure to appear, refusal to qualify as a witness or to testify, refusal or failure to produce any evidence which such person may have been duly subpoenaed to produce, as provided in actions or proceedings in the circuit courts of this state.

HISTORY: New 1957, p. 451, Act 297, Eff. Sep. 27.

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32.347 Menacing words or signs, disturbance of proceedings; punishment.

Sec. 47. A military court may punish for contempt any person who uses any menacing words, signs, or gestures in its presence, or who disturbs its proceedings by any riot or disorder. Such punishment shall not exceed confinement for 30 days or a fine or forfeiture of pay and allowances not exceeding $100.00, or both.

HISTORY: New 1957, p. 452, Act 297, Eff. Sep. 27.

32.348 Depositions.

Sec. 48. (a) At any time after charges have been signed as provided in section 29 of this act, any party may take oral or written depositions unless an authority competent to convene a court-martial for the trial of such charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate officers to represent the prosecution and the defense and may authorize such officers to take the deposition of any witness.

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of this state or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken upon reasonable notice to the other party, so far as otherwise admissible under the rules of evidence may be read in evidence before any court-martial or commission or in any proceeding before a court of inquiry or efficiency board, if it appears that the witness resides, or is, beyond the state in which the court-martial, commission, court of inquiry or efficiency board is ordered to sit, or beyond the distance of 100 miles from the place of trial or hearing; or that the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable to or refuses to appear and testify in person at the place of trial or hearing; or that the present whereabouts of the witness is unknown.

HISTORY: New 1957, p. 452, Act 297, Eff. Sep. 27.

32.349 Sworn testimony in authenticated record of court of inquiry or efficiency board, evidence in court-martial.

Sec. 49. (a) In any case not extending to the dismissal of an officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry or of an efficiency board, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by either party before a court-martial, military commission or efficiency board if the accused was a party before the court of inquiry or efficiency board and if the same issue was involved or if the accused consents to the introduction of such evidence.

(b) Such testimony may be read in evidence only by the defense in cases extending to the dismissal of an officer.

(c) Such testimony may also be read in evidence before a court of inquiry, military commission or efficiency board.

HISTORY: New 1957, p. 452, Act 297, Eff. Sep. 27.

32.350 Method of voting, challenges, findings, and sentence.

Sec. 50. (a) Voting by members of a general or special court-martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall in each case count the votes, which count shall be checked by the president of the court, who shall forthwith announce the result of the ballot to the members of the court.

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Interlocutory questions other than challenge, ruling, change of ruling.

(b) The law officer of a general court-martial and the president of a special court-martial shall rule upon interlocutory questions, other than challenge, arising during the proceedings. Any such ruling made by the law officer of a general court-martial upon any interlocutory question other than a motion for a finding of not guilty, or the question of the accused's sanity, shall be final and shall constitute the ruling of the court; but the law officer may change any such ruling at any time during the trial. Unless such ruling be final, if any member objects thereto, the court shall be cleared and closed and the question decided by a vote as provided in section 51, viva voce, beginning with the junior in rank.

Charge to court in general court-martial and special court-martial.

(c) Before a vote is taken on the findings, the law officer of a general court-martial and the president of a special court-martial shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court:

(1) That the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(2) That in the case being considered, if there is reasonable doubt as to the guilt of the accused, the doubt shall be resolved in favor of the accused and he shall be acquitted;

(3) That if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) That the burden of proof to establish guilt of the accused beyond reasonable doubt rests upon the state of Michigan.

HISTORY: New 1957, p. 453, Act 297, Eff. Sep. 27.

32.351 Vote required for conviction, sentence, and determination of other questions; tie vote.

Sec. 51. (a) No person shall be convicted of any offense, except by the concurrence of 2/3 of the members present at the time the vote is taken.

(b) All sentences shall be determined by the concurrence of 2/3 of the members present at the time that the vote is taken.

(c) All other questions to be decided by members of a general or special court-martial shall be determined by a majority vote of the members present at the time the vote is taken. A tie vote on a challenge shall disqualify the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity shall be a determination against the accused. A tie vote on any other question shall be a determination in favor of the accused.

HISTORY: New 1957, p. 453, Act 297, Eff. Sep. 27.

32.352 Announcement of findings and sentence.

Sec. 52. Every court-martial shall announce its findings and sentence to the parties as soon as determined.

HISTORY: New 1957, p. 453, Act 297, Eff. Sep. 27.

32.353 Court-martial record; authentication, copy to accused.

Sec. 53. (a) Each general court-martial shall keep a separate record of the proceedings of the trial of each case brought before it, and such record shall be authenticated by the signature of the president of the court and the law officer. In case the record cannot be authenticated by either the president of the court or by the law officer, by reason of the death, disability, or absence of such officer, it shall be signed by a member in lieu of him. If both the president of the court and the law officer are unavailable for such reasons the record shall be authenticated by 2 members.

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(b) Each special and summary court-martial shall keep a separate record of the proceedings in each case, which record shall contain such matter and be authenticated in such manner as may be required by regulations issued by the adjutant general pursuant to this act.

(c) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as authenticated.

HISTORY: New 1957, p. 453, Act 297, Eff. Sep. 27.

32.354 Cruel and unusual punishment prohibited; irons.

Sec. 54. Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, shall not be adjudged by any court-martial or inflicted upon any person subject to this code. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

HISTORY: New 1957, p. 454, Act 297, Eff. Sep. 27.

32.355 Punishment, maximum.

Sec. 55. The punishment which a court-martial may direct for an offense shall not exceed the limits prescribed by this code. If a sentence exceeds the limits prescribed by this code, the part of such sentence in excess of such limits shall be of no force and effect and the sentence shall automatically be reduced to the limits set by this code and shall not be changed as to form of punishment.

HISTORY: New 1957, p. 454, Act 297, Eff. Sep. 27.

32.356 Sentence; forfeiture of pay, confinement.

Sec. 56. (a) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to a confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date such sentence is approved by the convening authority and to any pay or allowances accrued before such date.

(b) Any period of confinement included in a sentence of a court-martial shall begin to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended shall be excluded in computing the service of the term of confinement.

(c) All other sentences of courts-martial shall become effective on the date ordered executed.

HISTORY: New 1957, p. 454, Act 297, Eff. Sep. 27.

32.357 Confinement; location.

Sec. 57. (a) Any sentence of confinement executed by a court-martial or other military court, whether or not such sentence includes discharge or dismissal, and whether or not such discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the organized militia, or in any jail, penitentiary or prison designated for that purpose as prescribed in section 11 of this act; and persons so confined in such jail, penitentiary or prison shall be subject to the same discipline and treatment as persons confined or committed to such jail, penitentiary or prison by the civil courts of this state or any political subdivision thereof.

(b) The omission of the words "hard labor" in any sentence of a court-martial adjudging confinement shall not be construed as depriving the authority executing such sentence of the power to require hard labor as part of the punishment.

(c) The keepers, officers and wardens of all city or county jails and of all other jails, penitentiaries or prisons designated by the governor or by the adjutant general pursuant to section 11 of this act shall receive the bodies of persons ordered into confinement prior to trial of persons committed to confinement by the process or mandate of

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a military court, and shall confine them according to law, and no such keeper, officer or warden shall demand or require payment of any fee or charge of any nature for receiving or confining a person of the organized militia of this state in such jail, penitentiary or prison.

HISTORY: New 1957, p. 454, Act 297, Eff. Sep. 27.

32.358 Sentence; approval; suspension, execution.

Sec. 58. (a) No court-martial sentence involving a general officer or extending to the dismissal of an officer (other than a general officer) shall be executed until approved by the governor. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him.

(b) No sentence which includes, unsuspended, a dishonorable or bad conduct discharge shall be executed until approved by an officer exercising general court-martial jurisdiction. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him.

(c) All other court-martial sentences, unless suspended, may be ordered executed by the convening authority when approved by him. He shall approve the sentence or such part, amount, or commuted form of sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him.

HISTORY: New 1957, p. 454, Act 297, Eff. Sep. 27.

32.359 Court-martial record; review by convening authority.

Sec. 59. After every trial by court-martial the record shall be forwarded to the convening authority, as reviewing authority, and final action thereon may be taken by such officer. "Convening authority" shall be interpreted to include the officer who convened the court, an officer commanding for the time being, a successor in command, or by any officer exercising general court-martial jurisdiction.

HISTORY: New 1957, p. 455, Act 297, Eff. Sep. 27.

32.360 Record; referral to state or staff judge advocate.

Sec. 60. The convening authority shall refer the record of every general court-martial to the state judge advocate or to his staff judge advocate or legal officer, as may be appropriate, who shall submit his written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

HISTORY: New 1957, p. 455, Act 297, Eff. Sep. 27.

32.361 Record; return to court for reconsideration.

Sec. 61. (a) If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any other further appropriate action with reference thereto.

(b) When there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned—

(1) For a reconsideration of a finding of not guilty or any specification or a ruling which amounts to a finding of not guilty; or

(2) For a reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this code; or

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(3) For increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory and such mandatory sentence is more severe than that imposed by the court.

HISTORY: New 1957, p. 455, Act 297, Eff. Sep. 27.

32.362 Disapproval of court-martial findings by convening authority; rehearing.

Sec. 62. (a) If the convening authority disapproves the findings and sentence of a court-martial he may, except where there is a lack of sufficient evidence in the record to support the findings, order a rehearing, in which case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges and specifications, and the accused shall not again be tried upon the same charges and specifications or any lesser included offense therein.

(b) Every rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon such rehearing the accused shall not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence shall be imposed unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings or unless the sentence prescribed for the offense is mandatory.

HISTORY: New 1957, p. 455, Act 297, Eff. Sep. 27.

32.363 Approval of findings by convening authority.

Sec. 63. In acting on the findings and sentence of a court-martial, the convening authority shall approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines shall be approved. Unless he indicates otherwise, approval of the sentence shall constitute approval of the findings and sentence.

HISTORY: New 1957, p. 456, Act 297, Eff. Sep. 27.

32.364 Record; review by convening authority.

Sec. 64. (a) When the convening authority is the governor his action on the review of any record of trial shall be final.

Same; judge advocate.

(b) In all other cases:

(1) When the convening authority has taken final action in a general court-martial case, he shall forward the entire record, including his action thereon and the opinion or opinions of the staff judge advocate or legal officer, to the state judge advocate for review.

(2) Where the sentence of a special court-martial as approved by the convening authority includes a bad conduct discharge, whether or not suspended, the record shall be forwarded to the officer exercising general court-martial jurisdiction over the command, to be reviewed in the same manner as a record of trial by general court-martial. If the sentence as approved by an officer exercising general court-martial jurisdiction includes a bad conduct discharge, whether or not suspended, the entire record including his action thereon and the opinion or opinions of the staff judge advocate or legal officer, shall be forwarded to the state judge advocate for review.

(3) All other special and summary court-martial records shall be forwarded to a judge advocate or legal officer and shall be acted upon, transmitted and disposed of as may be prescribed by regulations issued pursuant to this act.

Same; state judge advocate, opinion.

(c) The state judge advocate shall review the record of trial in every case forwarded to him for review as provided in this section. If the sentence, as approved, affects a

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general officer or extends to the dismissal of any officer, the state judge advocate shall submit his written opinion thereon to the governor. If the final action of the court-martial in any case forwarded to the state judge advocate has resulted in an acquittal of all charges and specifications, the opinion of the state judge advocate shall be limited to questions of jurisdiction.

Same; final action by state judge advocate.

(d) In all cases reviewable by the state judge advocate which do not affect a general officer or extend to the dismissal of an officer, the state judge advocate shall take final action.

Same; action permitted by reviewing officer.

(e) In any case reviewable by the governor where he is not the convening authority and in any case reviewable by the state judge advocate, the governor or the state judge advocate, as the case may be, shall have authority to:

(1) Act only with respect to the findings and sentence as approved by the convening authority;

(2) Affirm only such findings of guilty, and the sentence or such part or amount of the sentence as he finds correct in law and fact and determines on the basis of the entire record, should be approved;

(3) Weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses;

(4) Order a rehearing if he sets aside the findings and sentence, except where the setting aside is based on lack of sufficient evidence to support the findings;

(5) Order that the charges be dismissed if he sets aside the findings and sentence and does not order a rehearing.

Order to convening authority.

(f) The state judge advocate shall, unless there is to be no further action by the governor, instruct the convening authority to take action in accordance with his decision on a review. If he has ordered a rehearing, but the convening authority finds a rehearing impracticable, he may dismiss the charges.

Board of review, qualifications of members, powers.

(g) The state judge advocate may constitute 1 or more boards of review each composed of not fewer than 3 officers of the organized militia or retired list, each of whom shall be a member of the bar of this state, which board or boards of review shall review the record of any trial by court-martial referred to it by the state judge advocate. Such board of review shall have the same authority and powers on the review of a record as the state judge advocate has under the provisions of this section.

HISTORY: New 1957, p. 456, Act 297, Eff. Sep. 27.

32.365 Prejudicial error.

Sec. 65. (a) A finding or sentence of a court-martial shall not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

Reviewing authority, included offenses.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense.

HISTORY: New 1957, p. 457, Act 297, Eff. Sep. 27.

32.366 Court-martial; final review of sentence; accused's right to representation by counsel.

Sec. 66. (a) Upon the final review of a sentence of a general court-martial and of a sentence to a bad conduct discharge, the accused shall have the right to be repre-

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sented by counsel before the reviewing authority, the staff judge advocate or legal officer, as the case may be, and before the state judge advocate.

(b) Upon the request of an accused entitled to be so represented, the state judge advocate shall appoint a lawyer who is a member of the organized militia, active or retired, to represent the accused before the reviewing authority, the staff judge advocate, legal officer or the state judge advocate, as the case may be, in the review of cases specified in subdivision (a) of this section.

(c) An accused entitled to be so represented may be represented before the reviewing authority, the staff judge advocate or legal officer, as the case may be, and before the state judge advocate, by civilian counsel if provided by him.

HISTORY: New 1957, p. 457, Act 297, Eff. Sep. 27.

32.367 Vacation of suspension of sentence due to violation of probation; hearing.

Sec. 67. (a) Prior to the vacation of the suspension of a special court-martial sentence which as approved includes a bad conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. If he so desires the probationer shall be represented at such hearing either by counsel provided by him or by counsel provided for him at his request in the same manner as specified in section 66 of this code.

(b) A written record of such hearing and the recommendations of the officer having special court-martial jurisdiction shall be forwarded for action to the officer exercising general court-martial jurisdiction over the probationer. If he finds that the probation was not violated, he shall not vacate the suspension. If he vacates the suspension, the vacation shall be effective to execute any unexecuted portion of the sentence except a dismissal. The vacation of the suspension of a dismissal shall not be effective until approved by the governor.

(c) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or to which assigned, a court of the kind that imposed the sentence, if upon hearing, he finds that the accused violated his probation.

HISTORY: New 1957, p. 457, Act 297, Eff. Sep. 27.

32.368 Petition for new trial due to newly discovered evidence or fraud.

Sec. 68. At any time within 1 year after approval by the convening authority of a court-martial sentence which extends to dismissal, dishonorable or bad conduct discharge, the accused may petition the governor for a new trial on the grounds of newly-discovered evidence or fraud on the court-martial. The governor shall act upon the petition.

HISTORY: New 1957, p. 458, Act 297, Eff. Sep. 27.

32.369 Unexecuted sentence, uncollected forfeitures; suspension, remission.

Sec. 69. (a) The governor may remit or suspend any part or amount of the unexecuted portion of any sentence, including all uncollected forfeitures. The convening authority may remit or suspend any part or amount of the unexecuted portion of any sentence, including all uncollected forfeitures, other than a sentence approved by the governor.

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Administrative discharge.

(b) The governor, may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

HISTORY: New 1957, p. 458, Act 297, Eff. Sep. 27.

32.370 Restoration of rank and precedence.

Sec. 70. (a) Under such regulations as may be prescribed pursuant to this act, all rights, privileges, and property affected by an executed portion of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed portion is included in a sentence imposed upon the new trial or rehearing.

(b) Where a previously executed sentence of dishonorable or bad conduct discharge is not sustained on a new trial, the adjutant general shall substitute therefor a form of honorable discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(c) Where a previously executed sentence of dismissal is not sustained on a new trial, the adjutant general shall substitute therefor a form of honorable discharge authorized for administrative issuance and the officer dismissed by such sentence may be reappointed by the governor alone to such commissioned rank and precedence as in the opinion of the governor such former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be made effective as of the date of dismissal and he shall be carried on an unassigned list until a position vacancy shall occur. All time between the dismissal and such reappointment shall be considered as service for all state purposes.

HISTORY: New 1957, p. 458, Act 297, Eff. Sep. 27.

32.371 Court-martial; finality of action as reviewed and approved.

Sec. 71. The proceedings, findings, and sentences of courts-martial as reviewed and approved, as required by this code, and all dismissals and discharges carried into execution pursuant to sentences by courts-martial following review and approval, as required by this code, shall be final and conclusive, and order publishing the proceedings of courts-martial and all action taken pursuant to such proceedings shall be binding upon all departments, courts, agencies, and officers of the state, subject only to action upon a petition for a new trial as provided in section 68 of this code.

HISTORY: New 1957, p. 458, Act 297, Eff. Sep. 27.

32.372 Principal offender; definition.

Sec. 72. Any person subject to this code who—

(1) Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission; or

(2) Causes an act to be done which if directly performed by him would be punishable by this code,

is a principal.

HISTORY: New 1957, p. 458, Act 297, Eff. Sep. 27.

32.373 Hindering or preventing arrest, trial or punishment.

Sec. 73. Any person, subject to this code who, knowing that an offense is punishable by this code, has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 459, Act 297, Eff. Sep. 27.

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32.374 Included offenses; attempts.

Sec. 74. An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

HISTORY: New 1957, p. 459, Act 297, Eff. Sep. 27.

32.375 Attempt to commit offense.

Sec. 75. (a) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, but failing, to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this code who attempts to commit any offense punishable by this code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was not consummated.

HISTORY: New 1957, p. 459, Act 297, Eff. Sep. 27.

32.376 Conspiracy.

Sec. 76. Any person subject to this code who conspires with any other person or persons to commit any offense under this code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

HISTORY: New 1957, p. 459, Act 297, Eff. Sep. 27.

32.377 Solicitation of mutiny or desertion.

Sec. 77. (a) Any person subject to this code who solicits or advises another or others to desert in violation of section 80 or mutiny in violation of section 89 shall, if the offense solicited or advised is attempted, or committed, be punished with the punishment provided for the commission of the offense, but if the offense advised or solicited is not committed or attempted, he shall be punished as a court-martial may direct.

Solicitation to misbehave before the enemy, sedition.

(b) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of section 94 or sedition in violation of section 89 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but if the offense solicited or advised is not committed, he shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 459, Act 297, Eff. Sep. 27.

32.378 False representations.

Sec. 78. Any person who—

(1) Procures his own enlistment or appointment in the organized militia by means of knowingly false representations or deliberate concealment as to his qualifications for such enlistment or appointment and receives pay or allowances, thereunder; or

Same; eligibility for separation from organized militia.

(2) Procures his own separation from the organized militia by means of knowingly false representations or deliberate concealment as to his eligibility for such separation;

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 459, Act 297, Eff. Sep. 27.

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32.379 Effecting enlistment or separation of ineligible person.

Sec. 79. Any person subject to this code who effects an enlistment or appointment in or a separation from the organized militia of any person who is known to him to be ineligible for such enlistment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 460, Act 297, Eff. Sep. 27.

32.380 Desertion.

Sec. 80. (a) Any member of the organized militia who—

(1) Without proper authority goes or remains absent from his place of service; organization, or place of duty with intent to remain away therefrom permanently; or

(2) Quits his unit or organization or place of duty with intent to avoid hazardous duty or to shirk important service; or

(3) Without being regularly separated from one of the forces of the organized militia enlists or accepts an appointment in the same or another one of the forces of the organized militia without fully disclosing the fact that he has not been so regularly separated;

is guilty of desertion: Provided, however, That no member of the organized militia of this state shall be, in time of peace or order, prohibited from accepting bona fide employment in another state or leave the boundaries of this state in pursuance of his vocation, education or profession, if before so doing, he fully informs his commanding officer of his absence from the state and the reasons therefor: Provided, however, That the said commanding officer may waive this requirement.

(b) Any officer of the organized militia who, having tendered his resignation and prior to due notice of the acceptance of the same, quits his post or proper duties without leave and with intent to remain away therefrom permanently, is guilty of desertion.

(c) Any person found guilty of desertion or attempted desertion shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 460, Act 297, Eff. Sep. 27.

32.381 Absence without leave.

Sec. 81. Any person subject to this code who, without proper authority—

(1) Fails to go to his appointed place of duty at the time prescribed; or

(2) Goes from that place; or

(3) Absents himself and remains absent from his unit, organization, or other place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 460, Act 297, Eff. Sep. 27.

32.382 Missing means of conveyance.

Sec. 82. Any person subject to this code who through neglect or design misses the movement of a ship, train, bus, motor convoy, vehicle, airplane, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 460, Act 297, Eff. Sep. 27.

32.383 Contempt of president, governor or legislature.

Sec. 83. Any person subject to this code who uses contemptuous words against the president, the governor or the legislature shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 460, Act 297, Eff. Sep. 27.

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32.384 Disrespect toward superior officer.

Sec. 84. Any person subject to this code who behaves with disrespect toward his superior officer shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 460, Act 297, Eff. Sep. 27.

32.385 Striking or disobeying superior officer.

Sec. 85. Any person subject to this code who—

(1) Strikes his superior officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) Willfully disobeys a lawful command of his superior officer;

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 460, Act 297, Eff. Sep. 27.

32.386 Offenses committed by warrant officer or by enlisted person against warrant officer.

Sec. 86. Any warrant officer or enlisted person who—

(1) Strikes or assaults a warrant officer or non-commissioned officer when such officer is in the execution of his office; or

(2) Willfully disobeys the lawful order of a warrant officer or non-commissioned officer; or

(3) Treats with contempt or disrespect, in language or deportment, a warrant officer or non-commissioned officer, while such officer is in the execution of his office;

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 461, Act 297, Eff. Sep. 27.

32.387 Failure to obey orders or dereliction of duty.

Sec. 87. Any person subject to this code who—

(1) Violates or fails to obey any lawful general order or regulation; or

(2) Having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the same; or

(3) Is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 461, Act 297, Eff. Sep. 27.

32.388 Cruelty, oppression or maltreatment of persons subject to orders.

Sec. 88. Any person subject to this code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 461, Act 297, Eff. Sep. 27.

32.389 Mutiny, sedition, or failure to suppress same.

Sec. 89. (a) Any person subject to this code—

(1) Who with intent to usurp or override lawful military authority refuses, in concert with any other person or persons, to obey orders or otherwise do his duty or creates any violence or disturbance, is guilty of mutiny;

(2) Who with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, or persons, revolt, violence, or other disturbance against such authority is guilty of sedition;

(3) Who fails to do his utmost to prevent and suppress an offense of mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior officer or commanding officer of an offense or mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

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(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.
HISTORY: New 1957, p. 461, Act 297, Eff. Sep. 27.

32.390 Resisting arrest; escape.

Sec. 90. Any person subject to this code who resists apprehension or breaks arrest or who escapes from custody or confinement shall be punished as a court-martial may direct.
HISTORY: New 1957, p. 461, Act 297, Eff. Sep. 27.

32.391 Unauthorized release of prisoner or permitting escape.

Sec. 91. Any person subject to this code who, without proper authority, releases any prisoner duly committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct.
HISTORY: New 1957, p. 461, Act 297, Eff. Sep. 27.

32.392 Wrongful arrest.

Sec. 92. Any person subject to this code who, except as provided by law, or regulation, wrongfully apprehends, arrests, or confines any person shall be punished as a court-martial may direct.
HISTORY: New 1957, p. 461, Act 297, Eff. Sep. 27.

32.393 Unnecessary delay in trial or proceedings.

Sec. 93. Any person subject to this code who—

(1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

(2) Wrongfully fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused;

shall be punished as a court-martial may direct.
HISTORY: New 1957, p. 462, Act 297, Eff. Sep. 27.

32.394 Misbehavior before enemy.

Sec. 94. Any person subject to this code who before or in the presence of the enemy—

(1) Runs away; or

(2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend; or

(3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property; or

(4) Casts away his arms or ammunition; or

(5) Is guilty of cowardly conduct; or

(6) Quits his place of duty to plunder or pillage; or

(7) Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the organized militia of this state or any other state or territory; or

(8) Willfully fails to do his utmost to encounter, engage, capture or destroy any enemy troops, combatants, vessels, aircraft, or any other thing which it is his duty so to encounter, engage, capture, or destroy; or

(9) Does not afford all practicable relief and assistance to any troops, combatants, vessels or aircraft of the armed forces belonging to the United States or their allies, or to any other state or to the organized militia when engaged in battle;

shall be punished as a court-martial may direct.
HISTORY: New 1957, p. 462, Act 297, Eff. Sep. 27.

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32.395 Unauthorized abandonment of place, property or personnel to enemy.

Sec. 95. Any person subject to this code who compels or attempts to compel a commander of any place, vessel, aircraft, or of any other military property, or of any body of members of the armed forces of the United States or of any other state or territory or of the organized militia to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punishable as a court-martial may direct.

HISTORY: New 1957, p. 462, Act 297, Eff. Sep. 27.

32.396 Unauthorized use of parole or countersign.

Sec. 96. Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that, which, to his knowledge, he was authorized and required to give, shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 462, Act 297, Eff. Sep. 27.

32.397 Forcing a safeguard.

Sec. 97. Any person subject to this code who forces a safeguard shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 462, Act 297, Eff. Sep. 27.

32.398 Looting or unauthorized disposition of captured or abandoned enemy property.

Sec. 98. (a) All persons subject to this code shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody or control.

(b) Any person subject to this code who—

(1) Fails to carry out the duties prescribed in subdivision (a) of this section; or

(2) Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he shall receive or expect any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(3) Engages in looting or pillaging;

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 462, Act 297, Eff. Sep. 27.

32.399 Aiding or communicating with enemy.

Sec. 99. Any person subject to this code who—

(1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or any other thing; or

(2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly,

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 463, Act 297, Eff. Sep. 27.

32.400 Misconduct or maltreatment of subordinates while captured.

Sec. 100. Any person subject to this code who, while in the hands of the enemy in time of war—

(1) For the purpose of securing favorable treatment by his captors, acts without proper authority in any manner contrary to law, custom, or regulation, to the detri-

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ment of others of whatever nationality held by the enemy as civilian or military prisoners; or

(2) While in a position of authority over such persons maltreats them without justifiable cause;

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 463, Act 297, Eff. Sep. 27.

32.401 False record or document.

Sec. 101. Any person subject to this code who, with intent to deceive, signs any false record, return, regulations, order, or other official document, knowing the same to be false, or makes any other false document knowing the same to be false, or makes any other false official statement knowing the same to be false shall—

(1) If a commissioned officer found guilty of such offense by a court-martial, be dismissed from the service or punished as the court-martial shall direct;

(2) If other than a commissioned officer,

be punished as a court-martial may direct.

HISTORY: New 1957, p. 463, Act 297, Eff. Sep. 27.

32.402 Unauthorized sale, neglect or damage of military property.

Sec. 102. Any person subject to this code who, without proper authority—

(1) Sells or otherwise disposes of; or

(2) Willfully or through neglect damages, destroys, or loses; or

(3) Willfully or through neglect suffers to be lost, damaged, destroyed, sold or wrongfully disposed of;

any military property of the United States or of this state shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 463, Act 297, Eff. Sep. 27.

32.403 Hazarding of vessel.

Sec. 103. Any person subject to this code who willfully and wrongly hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the organized militia shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 463, Act 297, Eff. Sep. 27.

32.404 Unauthorized, drunk or reckless operation of military vehicle or aircraft.

Sec. 104. Any person subject to this code who operates any military vehicle or aircraft while drunk, or in a reckless or wanton manner, or without authority, shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 463, Act 297, Eff. Sep. 27.

32.405 Drunk, sleeping at, or desertion of post.

Sec. 105. Any sentinel or guard subject to this code who is found drunk or sleeping upon his post, or who leaves his post before he is regularly relieved, shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 464, Act 297, Eff. Sep. 27.

32.406 Duelling.

Sec. 106. Any person subject to this code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court-martial shall direct.

HISTORY: New 1957, p. 464, Act 297, Eff. Sep. 27.

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32.407 Feigning illness, disability, mental lapse or derangement, or self-injury.

Sec. 107. Any person subject to this code who for the purpose of avoiding work, duty, or service—

(1) Feigns illness, physical disablement, mental lapse or derangement; or

(2) Intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 464, Act 297, Eff. Sep. 27.

32.408 Riot or breach of peace.

Sec. 108. Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 464, Act 297, Eff. Sep. 27.

32.409 Provocation of person subject to code.

Sec. 109. Any person subject to this code who while in a duty status uses provoking or reproachful words or gestures toward any other persons subject to this code shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 464, Act 297, Eff. Sep. 27.

32.410 Obtaining money or property by fraud or counterfeiting.

Sec. 110. Any person subject to this code—

(1) Who, knowing it to be false or fraudulent—

(a) Makes any claim against the United States, this state or any officer thereof; or

(b) Presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States or this state or any officer thereof; or

(2) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, this state or any officer thereof—

(a) Makes or uses any writing or other paper knowing the same to contain any false or fraudulent statements; or

(b) Makes any oath to any fact or to any writing or other paper knowing such oath to be false; or

(c) Forges or counterfeits any signature upon any writing or other paper or uses any such signature knowing the same to be forged or counterfeited; or

(3) Who, having charge, possession, custody, or control of any money or other property of the United States, or this state, furnished or intended for the armed forces of this state, knowingly delivers to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or

(4) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or this state, furnished or intended for the armed forces of the United States or this state, makes or delivers to such person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or this state;

shall, upon conviction, be punished as provided in section 101 of this act.

HISTORY: New 1957, p. 464, Act 297, Eff. Sep. 27.

32.411 Conduct unbecoming an officer; dismissal.

Sec. 111. Any commissioned officer or warrant officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the military service of this state or punished as a court-martial may direct.

HISTORY: New 1957, p. 465, Act 297, Eff. Sep. 27.

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32.412 Perjury.

Sec. 112. Any person subject to this code who in a judicial proceeding or course of justice willfully and corruptly gives, upon a lawful oath in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct.

HISTORY: New 1957, p. 465, Act 297, Eff. Sep. 27.

32.413 Disorders and neglects prejudicial to good order and military discipline.

Sec. 113. Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the military forces of this state, other than those offenses hereinbefore reserved for punishment to the civil courts, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and punished in the discretion of such court.

HISTORY: New 1957, p. 465, Act 297, Eff. Sep. 27.

32.414 Courts of inquiry.

Sec. 114. (a) Courts of inquiry to investigate any matter may be convened by any person authorized to convene a general court-martial or by any other person designated by the governor for that purpose whether or not the persons involved have requested such an inquiry.

Organization; counsel for the court.

(b) A court of inquiry shall consist of 3 or more commissioned officers. For each court of inquiry the convening authority shall appoint counsel for the court.

Designation as a party; civilian employee of military forces interested in inquiry.

(c) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or in a status of a civilian employee of the military forces of this state, who has a direct interest in the subject of inquiry shall have the right to be designated as a party and shall be given due notice and shall have the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

Challenge for cause.

(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

Oath.

(e) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath of affirmation to faithfully perform their duties.

Witnesses.

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry as provided for courts-martial.

Findings of fact; opinions.

(g) Courts of inquiry shall make findings of fact but shall not express opinions or make recommendations unless required to do so by the convening authority.

Record, authentication.

(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the senior officer and counsel thereof and forwarded to the convening authority. In case the record cannot be authenticated by the signatures of the senior officer and counsel it shall be signed by a member in lieu of the senior officer and in case the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of counsel.

HISTORY: New 1957, p. 465, Act 297, Eff. Sep. 27.

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32.415 Efficiency board; convening, procedures, findings; discharge of unfit officer.

Sec. 115. At any time the moral character, capacity and general fitness for service of any officer or warrant officer of the organized militia, not in the service of the United States, may be determined by an efficiency board detailed on orders of the governor, of 3 commissioned officers, senior in rank to the officer whose fitness for service is under inquiry, and if the findings of such board be unfavorable to such officer and approved by the governor, he shall be discharged: Provided, however, That any such officer ordered to appear before an efficiency board as provided in this section, may, at any time prior to the day the efficiency board convenes to consider his case, demand that a court of inquiry, as provided by section 113 of this act, be substituted for the said efficiency board. If pursuant to such a demand, a court of inquiry makes a finding adverse to the officer whose moral character, capacity and general fitness for service are under investigation, and the said finding be approved by the governor, the officer against whom said adverse finding shall be had, shall be discharged. The procedural and other rules applicable to courts of inquiry shall equally apply to efficiency boards. The officer whose moral character, capacity and general fitness for service is under investigation shall have a right to counsel in the proceedings outlined in this section.

HISTORY: New 1957, p. 466, Act 297, Eff. Sep. 27.

32.416 Administration of oaths and affidavits.

Sec. 116. (a) The following officers of the organized militia shall have power to administer oaths for the purposes of military administration, including military justice, and affidavits may be taken for such purposes before such officers:

(1) All judge advocates of the Michigan national guard and state troops;

(2) All law officers;

(3) All summary courts-martial;

(4) All adjutants, assistant adjutants, acting adjutants and personnel adjutants, including warrant officers acting in such capacities;

(5) All staff judge advocates and legal officers and acting or assistant judge advocates and legal officers.

Same; military justice.

(b) The following officers shall have power to administer oaths necessary in the performance of their duties, and affidavits may be taken for such purposes before such officers:

(1) The president, law officer, trial counsel and assistant trial counsel for all general and special courts-martial;

(2) The president and counsel for any court of inquiry;

(3) All officers designated to take depositions;

(4) All officers detailed to conduct investigations;

Same; retired officers on active duty.

(c) Officers on the retired list shall not be authorized to administer oaths as provided in this section unless they are on actual state duty, or on active duty in or with the organized militia under orders of the governor.

Signature and title; prima facie evidence of authority.

(d) The signature without seal of any such person, together with the title of his office, shall be prima facie evidence of his authority.

HISTORY: New 1957, p. 466, Act 297, Eff. Sep. 27.

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32.417 Military justice code; explanation to enlisted persons.

Sec. 117. Sections 15, 24, 26, 30, 34, 35, 54, 72 to 112, inclusive, and 118 of this act shall be carefully explained to every enlisted person at the time of his enlistment or induction into or when ordered to duty in or with any of the forces of the organized militia or within 6 days thereafter. They shall be explained again after he has completed 6 months' service, and again at the time he re-enlists. A complete text of this code and regulations prescribed by the governor thereunder shall be made available to any member of the organized militia, upon his request, for his personal examination.

HISTORY: New 1957, p. 467, Act 297, Eff. Sep. 27.

32.418 Complaint against commanding officer by enlisted person; procedure.

Sec. 118. Any member of the organized militia who believes himself wronged by his commanding officer, and, upon due application to such commander, is refused redress, may complain to any superior officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. That officer shall examine into said complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, transmit to the adjutant general a true statement of such complaint, with the proceedings had thereon.

HISTORY: New 1957, p. 467, Act 297, Eff. Sep. 27.

32.419 Torts by militia; investigation, assessment of damages, approval.

Sec. 119. (a) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that his property has been wrongfully taken by members of the organized militia, he may, subject to such regulations as may be prescribed pursuant to this act, convene a board to investigate the complaint. The board shall consist of from 1 to 3 officers and shall have for the purpose of such investigation, power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by such board shall be subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of such commanding officer directing charges herein authorized shall be conclusive on any disbursing officer of state funds for the payment by him to the injured parties of the damages so assessed and approved.

Unascertained offenders; assessment of nonappropriated military fund of unit.

(b) Where the offenders cannot be ascertained, but the organization or detachment to which they belong is known, the adjutant general may direct that the amount of damages assessed and approved to be paid the injured parties from the nonappropriated military fund of the unit of the organized militia to which such offenders belonged.

HISTORY: New 1957, p. 467, Act 297, Eff. Sep. 27.

32.420 Marshals of military courts; appointment, removal, duties, bond, status.

Sec. 120. (a) Summary courts-martial and the presidents of other courts-martial and of courts of inquiry may each appoint and, at any time, remove 1 or more marshals, each of whom shall, before entering upon his duties, execute a bond to the state in the penal sum of $1,000.00, with sufficient sureties, to be approved by the president of the court or officer appointing him, for the faithful performance of his duties and the prompt payment of all moneys collected by him.

(b) Each marshal shall perform the usual duties of such marshals and shall execute any process, mandate or order issued by such president or court officer, and perform

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all acts and duties by this act imposed on or authorized to be performed by any peace officer as defined in the laws of this state.

(c) A bond given as herein provided may be prosecuted for breach of the conditions thereof, in the name of the people, by the attorney general or a judge advocate and all moneys recovered shall be paid to the state armory fund. All such marshals shall be deemed peace officers for the purposes of this act and shall have all the powers and immunities of peace officers.

HISTORY: New 1957, p. 467, Act 297, Eff. Sep. 27.

32.421 Process, mandates; subpoenas, duces tecum, attachment of witnesses and books and records; form, execution, service without charge.

Sec. 121. (a) Military courts are empowered to issue all process and mandates necessary and proper to carry into full effect the powers vested in such courts. Such courts shall have power to issue subpoenas duces tecum and to enforce by attachment attendance of witnesses and production of books and records.

(b) Such process and mandates may be issued by summary courts-martial, provost courts and the president of other military courts and may be directed to and may be executed by the marshals of the military courts or any peace officer as defined in the laws of this state and shall be in such form as may be prescribed by regulations issued pursuant to this act.

(c) It shall be the duty of all officers to whom such process or mandate may be directed to execute the same and make return of their acts thereunder according to the requirements of the same. Except as otherwise specifically provided in this act, no such officer shall demand or require payment of any fee or charge of any nature for receiving, executing or returning any such process or mandate or for any services in connection therewith.

HISTORY: New 1957, p. 468, Act 297, Eff. Sep. 27.

32.422 Fines; payment into state armory fund.

Sec. 122. Fines may be paid to a military court or to an officer executing its process. The amount of any such fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him, until the said fine is liquidated. Any sum so deducted from any state pay or allowance shall be turned into the military court which imposed the fine and shall be paid over by the officer receiving the same in like manner as provided for other fines and moneys collected under a sentence of a summary court-martial. A fine or penalty imposed by a military court upon an officer or enlisted person shall be paid by the officer collecting the same within 30 days to the state treasurer and credited to the state armory fund.

HISTORY: New 1957, p. 468, Act 297, Eff. Sep. 27.

32.423 Military court convening authority, member or personnel; immunity from action.

Sec. 123. No action or proceeding shall be prosecuted or maintained against the convening authority or member of a military court or officer or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

HISTORY: New 1957, p. 468, Act 297, Eff. Sep. 27.

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32.424 Jurisdiction of military courts and boards; burden of proof.

Sec. 124. The jurisdiction of the military courts and boards established by this act shall be presumed and the burden of proof shall rest on any person seeking to oust such courts or boards of jurisdiction in any action or proceeding.

HISTORY: New 1957, p. 468, Act 297, Eff. Sep. 27.

32.425 Delegation of authority by governor.

Sec. 125. The governor is authorized to delegate any authority vested in him under this code, and to provide for the sub-delegation of any such authority.

HISTORY: New 1957, p. 468, Act 297, Eff. Sep. 27.

32.426 Michigan code of military justice; short title.

Sec. 126. This act shall be known and may be cited and referred to as the "Michigan code of military justice".

HISTORY: New 1957, p. 468, Act 297, Eff. Sep. 27.

32.427 Repeals.

Sec. 127. The following acts and parts of acts are hereby repealed: Act No. 311 of the Public Acts of 1913, the same being sections 32.111 to 32.116, inclusive, of the Compiled Laws of 1948, and sections 34, 42, 54, 56, 57, 58, 59 and 60 of Act No. 84 of the Public Acts of 1909, as amended, being sections 32.34, 32.42, 32.54, 32.56, 32.57, 32.58, 32.59 and 32.60, respectively, of the Compiled Laws of 1948.

HISTORY: New 1957, p. 469, Act 297, Eff. Sep. 27.

Act 150, 1967, p. 182; Imd. Eff. Jun. 30.

AN ACT to provide for the militia of this state and its organization, command, personnel, administration, training, supply, discipline, employment and retirement, and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 1

GENERAL PROVISIONS

32.501 Michigan military act; short title.

Sec. 101. This act shall be known and may be cited as the "Michigan military act".

HISTORY: New 1967, p. 182, Act 150, Imd. Eff. Jun. 30.

32.503 Michigan military act; intent, construction.

Sec. 103. It is the intent of this act and other acts of this state affecting the Michigan national guard, the Michigan defense force and the unorganized militia to conform to applicable acts and regulations of the United States. The laws of this state shall be construed to effect this intent, and anything to the contrary shall be held to be null and void as long as the subject matter shall have been acted upon by the United States. Upon any subject not acted upon with reference to these matters by the United States, any law or regulation of this state shall be in full force and effect.

HISTORY: New 1967, p. 182, Act 150, Imd. Eff. Jun. 30.

32.505 Michigan military act; definitions.

Sec. 105. The definitions used in the command, administration, supply, training, discipline and employment of the armed forces of the United States, unless clearly inapplicable or contradictory, are adopted with respect to the state military establishment except as otherwise provided in this act. As used in this act:

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(a) "Military" refers to all components of the state military establishment.

(b) "Michigan national guard" means the army national guard and the air national guard.

(c) "Commander-in-chief" means the governor of the state.

(d) "Active state service" as applied to the national guard and the defense force means military service in support of civil authorities when so ordered by the governor or as otherwise provided in this act.

(e) "Special duty" means military service in support of the full-time operation of the state military establishment for periods of at least 1 day when so ordered by competent authority.

(f) "Active service" means service, including active state service and special duty as may be required by law, regulation or pursuant to order of the governor, and also the continuing obligations of active members of the national guard and the defense force to serve by virtue of their commissions, appointments or enlistments.

(g) "Inactive status" applies to those members of the national guard who are carried upon an inactive list as authorized by federal laws or regulations.

(h) "In the service of the United States" and "not in the service of the United States" means the same as those terms are used and construed in the federal laws and regulations.

(i) "Officer" means a commissioned officer and a warrant officer, unless a distinction between commissioned officer and warrant officer is clearly evident.

(j) "Martial law" or "martial rule" means the exercise of partial or complete military control over domestic territory in time of emergency because of public necessity.

(k) "Armory" means the buildings, facilities, lots and grounds used by an army, naval or air unit of the organized militia as home station.

(l) "Military establishment" means the organized militia of this state including the employees and equipment assigned or necessary to carry out the provisions of this act.

HISTORY: New 1967, p. 182, Act 150, Imd. Eff. Jun. 30.

32.507 Rules and regulations for administration of act; promulgation by adjutant general.

Sec. 107. The adjutant general shall promulgate rules and regulations, to be approved by the governor, necessary for administration of this act in accordance with the provisions of Act. No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 183, Act 150, Imd. Eff. Jun. 30.

32.509 State military establishment; composition; organized and unorganized militia.

Sec. 109. The organized militia of this state taken collectively shall be known as the state military establishment and constitutes the armed forces of this state. The organized militia consists of the army national guard, the air national guard, and the defense force when actually in existence as provided in this act. The unorganized militia consists of all other able-bodied citizens of this state and all other able-bodied citizens who are residents of this state who have or shall have declared their intention to become citizens of the United States, who shall be age 17 or over and not more than age 60, and shall be subject to state military duty as provided in this act.

HISTORY: New 1967, p. 183, Act 150, Imd. Eff. Jun. 30.

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32.511 State code of military justice; application; jury and posse comitatus duties.

Sec. 111. The state code of military justice applies to all members of the organized militia when not in active federal service. Officers and enlisted personnel of the organized militia during service in the organized militia are exempt from jury duty and service on a posse comitatus.

HISTORY: New 1967, p. 183, Act 150, Imd. Eff. Jun. 30.

32.513 Officers and enlisted personnel; pay and allowances; appropriations.

Sec. 113. Officers and enlisted personnel of the state military establishment shall receive for each day spent by them on active state service under orders of the governor, who is authorized to determine when to place them on such duty, the pay and allowances provided for persons of the federal military forces of like grade or rank and years of service. Enlisted personnel so serving shall receive $3.00 per day allowance in addition to the pay herein authorized. There is hereby appropriated each year from the general fund, the sums necessary to implement the provisions of this type active state service including logistic costs.

HISTORY: New 1967, p. 183, Act 150, Imd. Eff. Jun. 30.

32.515 Subsistence.

Sec. 115. Subsistence shall be furnished by the state when troops of the state military establishment are mobilized for state duty requiring the furnishing of subsistence.

HISTORY: New 1967, p. 183, Act 150, Imd. Eff. Jun. 30.

32.517 Privilege from arrest and imprisonment; exemption from levy of execution, seizure, or attachment; adjournment of pending law suits; forfeitures; seizure or sale of chattels; utility service.

Sec. 117. Officers and enlisted personnel on active state service in excess of 7 days and when so ordered by the governor in support of civilian authority or in time of war or emergencies of this state or of the United States, in all cases, except for treason, felony or breach of the peace are privileged from arrest and imprisonment during the time of active state service and for a period of 6 months after the service ceases. Their separate property during the same period is exempt from levy of execution, seizure or attachment for debts contracted prior to or during such service. Suits in the courts of this state, pending against any such person when he enters active state service, or commenced at any time during the service, stand adjourned until after the termination of the service. Forfeiture of an executory contract, whether title retaining or otherwise, shall not be enforced against any such person, and seizure or sale of chattels shall not be made against such person, during service nor for 90 days after the termination of the service. The person or his immediate household shall not be deprived of or denied heat, water, electricity or gas service by any public utility serving his home during the first 90 days of military service by reason of unpaid bills for the commodities.

HISTORY: New 1967, p. 184, Act 150, Imd. Eff. Jun. 30.

32.519 National guard compensation board; members, appointment and duties.

Sec. 119. The governor may appoint a board of 3 national guard officers, 1 of whom shall be a medical officer to inquire into and make recommendations concerning the payment of compensation, claims, medical attention, hospital treatment, funeral expenses and other expenses not otherwise provided for in this section for a member of the state military establishment who is injured, disabled or killed during the performance of active state service or special duty. If satisfied that any injury or disability was received or death caused while in line of duty and in the performance of official duties, the board shall recommend compensation to the injured or disabled member or

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shall recommend payment of medical, hospital and other incidental necessary expenses or compensation to the dependents of the deceased member. Recommendations of the board shall be forwarded to the state administrative board for final determination and payment.

HISTORY: New 1967, p. 184, Act 150, Imd. Eff. Jun. 30.

32.521 Line of duty; definition.

Sec. 121. "Line of duty" as used in this act means an act performed by a member of the state military establishment in obedience to or in conformity with a law, rule, regulation, order, command or custom of the military service or an act performed which is not in violation of a law, rule, regulation, order, command or custom of the military service, or that will not bring discredit to the military service. A member of the state military establishment, while on active state service or while attending to military duty required or expected of him or while exercising any personal privilege not prohibited him, by virtue of his status as a member of the military forces, is deemed to be in a line of duty status with respect to an act so done or privilege so exercised, or any happening to him, unless it be shown that such act or happening was on his part in disobedience to some law, rule, regulation, lawful command or order applicable to him, or was the result of his own misconduct. The fact that the member is on leave, pass or furlough status does not preclude an act of, or happening to, the member from being as in line of duty.

HISTORY: New 1967, p. 184, Act 150, Imd. Eff. Jun. 30.

32.523 Line of duty; construction, presumptions.

Sec. 123. In construing the term "line of duty" the recorded opinions of the judge advocate general of the United States armed forces in like cases or circumstances or involving like principles, insofar as not contrary to this act, shall govern and be applied to line of duty cases arising under this act. Actions of members of the state military establishment while on duty are presumed to be in line of duty unless clearly shown to have been otherwise, under the provisions of this act.

HISTORY: New 1967, p. 184, Act 150, Imd. Eff. Jun. 30.

32.525 Duty; construction.

Sec. 125. "Duty" also includes the time necessary for a member of the state military establishment to go from his usual residence or place of business or employment to respond to a call to duty, and the time necessary to return from the place of duty to his usual residence or place of business or employment, after the duty has been performed.

HISTORY: New 1967, p. 185, Act 150, Imd. Eff. Jun. 30.

32.527 Officers and enlisted personnel; accrued leave.

Sec. 127. Officers and enlisted personnel of the state military establishment while on active state service or special duty, under the provisions of this act or on orders of the governor, shall accrue leave as provided members of the United States armed forces.

HISTORY: New 1967, p. 185, Act 150, Imd. Eff. Jun. 30.

32.529 Officers and enlisted personnel; continuation until expiration of term.

Sec. 129. Officers and enlisted personnel in the state military establishment when this act takes effect shall continue in office and remain in the service until the expiration of their terms of office or enlistment, unless otherwise provided by this act.

HISTORY: New 1967, p. 185, Act 150, Imd. Eff. Jun. 30.

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32.531 Officers' bonds; force and effect.

Sec. 131. The bond of an officer who has heretofore given a bond by virtue of any law concerning the militia shall remain in full force and effect according to its terms.

HISTORY: New 1967, p. 185, Act 150, Imd. Eff. Jun. 30.

32.533 Senior line officer and general officers; tenure.

Sec. 133. The tenure of the senior line officer serving in the grade of major general shall not exceed 4 years in grade except when the national guard is in the service of the United States. Tenure shall begin upon date of appointment regardless of component. At the termination of tenure of office, general officers shall be placed on the retired list of the Michigan national guard as overage. Once retired, a general officer is not again eligible for assignment as a general officer in the active Michigan national guard. Provisions of this section shall become effective January 1, 1968.

HISTORY: New 1967, p. 185, Act 150, Imd. Eff. Jun. 30.

CHAPTER 2

POWERS AND DUTIES OF THE GOVERNOR

32.551 Governor, commander in chief; adjutant general; power to order militia to active service.

Sec. 151. The governor is the commander-in-chief of the organized militia. He may order to active state service any members of the organized militia in case of riot, tumult, breach of the peace, resistance of process, or for service in aid of civil authority, whether state or federal, or in time of public danger, disaster, crisis, catastrophe or other public emergency within this state. If the governor and his legal successor are absent, disabled or cannot be communicated with, the adjutant general, if he believes the danger great and imminent, may order out, in the name of the governor, such troops of the organized militia as he believes necessary to meet the emergency.

HISTORY: New 1967, p. 185, Act 150, Imd. Eff. Jun. 30.

32.555 Unorganized militia; power of the governor.

Sec. 155. The governor may order into the defense force any members of the unorganized militia in case of riot, tumult, breach of the peace, resistance of process, or for service in aid of civil authority, whether state or federal, or in time of public danger, disaster, crisis, catastrophe or other public emergency within this state.

HISTORY: New 1967, p. 185, Act 150, Imd. Eff. Jun. 30.

32.559 Mutual military assistance agreements with other states.

Sec. 159. The governor may enter into agreements with the governors of other states under which the military forces of this state, in time of invasion, rebellion, public disaster or catastrophe, may be employed within the area of the other states for mutual assistance in the public interest.

HISTORY: New 1967, p. 185, Act 150, Imd. Eff. Jun. 30.

32.563 State military forces; pursuit of insurrectionist, saboteur, or enemy into another state; captives, surrender and extradition.

Sec. 163. If the United States is at war or if any other emergency is declared by the president or the congress of the United States or by the governor or legislature, any organization, unit or detachment of the military forces of this state, by direction of the governor and upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces beyond the borders of this state into another state, until they are apprehended or captured by such organization, unit or detachment, or until the military or police forces of such other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons pursued, if the other state has

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given authority by law for such pursuit by the forces of this state. Except as otherwise provided by law, a person who is apprehended or captured in another state by forces of this state shall be surrendered without unnecessary delay to the military or police forces of the state in which he is taken or to the United States. The surrender does not constitute a waiver by this state of its right to extradite or prosecute the person for a crime committed in this state.

HISTORY: New 1967, p. 186, Act 150, Imd. Eff. Jun. 30.

32.567 Military forces of another state; pursuit of insurrectionist, saboteur, or enemy into this state; surrender of captives; construction of section.

Sec. 167. A military force of another state which is in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces may continue such pursuit into this state, until the military or police forces of this state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons pursued. The pursuing forces may arrest or capture such persons within this state while in fresh pursuit. Any person who is captured or arrested by the military forces of another state, while in this state, shall be surrendered without unnecessary delay to the military or police forces of this state to be dealt with according to law. This section shall not be construed to make unlawful an arrest in this state otherwise lawful, nor to repeal or prevent the application of any provision of law on the fresh pursuit of criminals.

HISTORY: New 1967, p. 186, Act 150, Imd. Eff. Jun. 30.

32.571 Executive reorganization of military establishment; transfer of personnel.

Sec. 171. The governor may organize, disband, arrange, transfer, convert, alter, consolidate or attach units of the military establishment. The transfer of personnel to and within units shall be carried out by order of the governor.

HISTORY: New 1967, p. 186, Act 150, Imd. Eff. Jun. 30.

32.575 Declaration of martial law.

Sec. 175. When any part of the organized militia is employed pursuant to section 151, the governor, if in his judgment maintenance of law and order will thereby be promoted, may by proclamation declare the county or city in which the troops are serving or any specified portion thereof, to be under martial law or martial rule.

HISTORY: New 1967, p. 186, Act 150, Imd. Eff. Jun. 30.

32.579 Command of state military personnel; militia on active service; duties, liabilities, immunities from civil and criminal prosecutions.

Sec. 179. (a) No civilian person, except the governor, may command personnel of the state military establishment.

(b) Whenever any portion of the organized militia is called into active state service or into the service of the United States to execute the laws, engage in disaster relief, suppress or prevent actual or threatened riot or insurrection, or repel invasion, any commanding officer shall use his own judgment with respect to the propriety of apprehending or dispersing any snipers, rioters, mob or unlawful assembly. Such commander shall determine the amount and kind of force to be used in preserving the peace and carrying out the orders of the governor. His honest and reasonable judgment under the circumstances then existing, in the exercise of his duty, shall be full protection, civilly and criminally, for any act or acts done while in line of duty; and no member of the organized militia in active state service or in the service of the United States shall be liable civilly or criminally for any act or acts done by him in the performance of his duty.

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(c) A member of the organized militia in active state service or in the service of the United States, while acting in aid of civil authorities and in line of duty shall have the immunities of a peace officer.

(d) The attorney general of Michigan shall defend any civil action or criminal prosecution brought in any court, state or federal, against any member of the organized militia or his estate arising from any act or omission alleged to have been committed while in active state service or in the service of the United States.

HISTORY: New 1967, p. 186, Act 150, Imd. Eff. Jun. 30;—Am. 1968, p. 369, Act 241, Imd. Eff. Jun. 26.

32.581 Officers and warrant officers; appointment, promotion.

Sec. 181. The authority to appoint and promote officers and warrant officers of the organized militia is vested in the governor.

HISTORY: New 1967, p. 186, Act 150, Imd. Eff. Jun. 30.

32.582 Governor; awards for services rendered to military establishment.

Sec. 182. The governor as commander in chief, may prescribe the award of medals and other suitable means of public recognition for distinguished service, longevity, acts of valor or meritorious achievement. The awards may be made to members of the organized militia of this state or to other individuals, not members of the organized militia, who have rendered appropriate service to the military establishment. The adjutant general shall develop and publish rules to carry out this provision.

HISTORY: Add. 1970, p. 506, Act 164, Imd. Eff. Aug. 2.

CHAPTER 3

THE NATIONAL GUARD

32.601 National guard; composition.

Sec. 201. The national guard consists of the organizations and units which are, under the laws and regulations of the United States, prescribed as the portion of the national guard of the United States apportioned and assigned to this state in accordance with a troop basis approved by the governor, and such other officers, warrant officers and enlisted personnel as may be required.

HISTORY: New 1967, p. 187, Act 150, Imd. Eff. Jun. 30.

32.605 Commanding officers; duties and responsibilities.

Sec. 205. The commanding officer of each organization of the national guard is responsible for training, combat readiness and efficiency of the organization he commands.

HISTORY: New 1967, p. 187, Act 150, Imd. Eff. Jun. 30.

32.613 Officers; appointment, qualifications; merger of national guard and reserve component.

Sec. 213. The governor shall appoint general officers of the national guard from qualified federally recognized officers of the national guard, who have served at least 5 years as commissioned officers in the national guard, and shall be qualified for federal recognition as general officers. In the event of a merger of the national guard and another reserve component, the commissioned service in the reserve component shall be considered comparable to national guard federally recognized commissioned service in meeting the requirements of this section.

HISTORY: New 1967, p. 187, Act 150, Imd. Eff. Jun. 30.

32.617 Officers; oath required, time.

Sec. 217. An officer of the national guard shall take and subscribe to the following oath of office: "I ..... do solemnly swear (or affirm) that I will support and defend the constitution of the United States and the constitution of the state of Michigan, against all enemies, foreign and domestic; that I will bear true faith and alle-

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giance to the same; that I will obey the orders of the president of the United States and of the governor of the state of Michigan; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of ..... in the national guard of the United States and of the state of Michigan, upon which I am about to enter." The officer shall take this oath within 10 days after his appointment and unless he does so is deemed to have declined his office and his appointment may be vacated.

HISTORY: New 1967, p. 187, Act 150, Imd. Eff. Jun. 30.

32.621 Enlistment periods.

Sec. 221. Original enlistments in the national guard and all subsequent enlistments shall be for the period prescribed by laws or regulations for the national guard of the United States.

HISTORY: New 1967, p. 187, Act 150, Imd. Eff. Jun. 30.

32.625 Oath of person enlisting in national guard.

Sec. 225. A person enlisting in the national guard shall take an oath to defend the constitution of the United States and the constitution of the state in such form as may be prescribed by regulations.

HISTORY: New 1967, p. 187, Act 150, Imd. Eff. Jun. 30.

32.629 Oaths and affirmations; administration by commissioned officers.

Sec. 229. A commissioned officer of the national guard may administer oaths and affirmations in the appointment or enlistment of officers and enlisted personnel of the national guard.

HISTORY: New 1967, p. 187, Act 150, Imd. Eff. Jun. 30.

32.633 Enlistments and commissions; continuation after termination of national emergency; discharges.

Sec. 233. On termination of an emergency in which officers and enlisted personnel of the national guard have been called or ordered into federal service by the president of the United States, in accordance with the laws of the United States, the officers and enlisted men shall continue to serve in the national guard until the dates upon which their commissions or enlistments entered into prior to the call or induction into the federal service would have expired if uninterrupted, unless discharged in accordance with federal or state directives.

HISTORY: New 1967, p. 187, Act 150, Imd. Eff. Jun. 30.

32.637 Certificates of discharge; discharge before expiration of term.

Sec. 237. Enlisted personnel discharged from service in the national guard shall receive certificates of discharge in writing as prescribed by the laws or regulations of the United States or this state for the national guard. In time of peace, a discharge may be given prior to the expiration of the term of enlistment under prescribed regulations, subject to the restrictions of federal law or regulations.

HISTORY: New 1967, p. 188, Act 150, Imd. Eff. Jun. 30.

CHAPTER 4

STATE DEFENSE FORCE

32.651 Michigan defense force; conditions for organization and disbandment; lists of members.

Sec. 251. When the president calls or orders all or part of the national guard into federal service in time of a national emergency or when it appears that the national guard may be called to federal service, the governor, as commander-in-chief, may organize within the state military establishment such number of army, navy and air force units to be known as the Michigan defense force, as he deems necessary for the ade-

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quate protection of the state. Upon the relief, return and reversion to state control of an adequate number of troops of the national guard, the governor shall disband the defense force. A list of former officers, warrant officers and enlisted personnel of the national guard shall be maintained in the office of the adjutant general to aid in forming the defense force.

HISTORY: New 1967, p. 188, Act 150, Imd. Eff. Jun. 30.

32.655 State defense force and unorganized militia; determination of emergency.

Sec. 255. In case of war, or a national emergency, when the national guard may be in the military service of the United States, the defense force shall be ready and able to protect the state in case of insurrection, invasion, disaster or other emergency, actual or imminent. In such case the governor, as commander-in-chief, may use the defense force augmented if necessary by all or a part of the unorganized militia not responsive to the orders of the president for the time being. The determination of the governor that an emergency exists or is imminent is conclusive.

HISTORY: New 1967, p. 188, Act 150, Imd. Eff. Jun. 30.

32.659 Service or enlistment; duration.

Sec. 259. An officer shall agree to service the state for the duration of the emergency. An enlistee shall enlist in writing for the duration of the emergency or such time as regulations may direct.

HISTORY: New 1967, p. 188, Act 150, Imd. Eff. Jun. 30.

32.663 Oaths required of officers and enlisted personnel.

Sec. 263. Officers and enlisted personnel of the defense force shall take the oath prescribed by regulations.

HISTORY: New 1967, p. 188, Act 150, Imd. Eff. Jun. 30.

32.667 Oaths and affirmations; administration by commissioned officer.

Sec. 267. Commissioned officers of the defense force may administer oaths and affirmations in the discharge of any of the duties pertaining to their offices and in connection with the appointment of officers and the enlistment of men in the defense force.

HISTORY: New 1967, p. 188, Act 150, Imd. Eff. Jun. 30.

32.671 Officers and enlisted personnel; appointment, duties and authority; records.

Sec. 271. Officers and enlisted personnel of the defense force shall be appointed in the same manner, and with like duties, responsibilities and authority as prescribed by law and regulations governing the national guard, or as may be prescribed in special regulations promulgated for the national guard or the defense force. Orders evidencing the appointment, promotion or severance from the service of officers and enlisted men of the military establishment shall be issued through and recorded in the office of the adjutant general.

HISTORY: New 1967, p. 188, Act 150, Imd. Eff. Jun. 30.

32.675 Officers and enlisted personnel; qualifications for appointment and promotion; application of act.

Sec. 275. The qualifications of persons for appointment and promotion as officers and warrant officers of, and for enlistment in, the defense force shall be as prescribed by the governor, and without reference to qualifications prescribed for the national guard. Except as otherwise provided in this act, the provisions of this act and of regulations made in accordance with this act applying to the Michigan national guard with relation to aid of civil authorities and other emergency service; bonding of officers; military discipline; accounting and responsibility of officers for public funds and prop-

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erty; forms, returns and reports; surveys of property, issuance, care and security of military property; and all recognized military procedure, customs of the service and administration, shall also apply to and govern the defense force in like situations.

HISTORY: New 1967, p. 189, Act 150, Imd. Eff. Jun. 30.

32.679 Training and discipline regulations.

Sec. 279. Regulations for the training and discipline of the defense force shall be prescribed by order of the governor.

HISTORY: New 1967, p. 189, Act 150, Imd. Eff. Jun. 30.

32.683 Pay and allowances.

Sec. 283. While in active state service under orders of the governor under the circumstances and conditions prescribed for the national guard in this act, or in such status in the administration, training, command and supply of the Michigan defense force, the officers and enlisted men thereof shall receive the same pay and allowances as are prescribed for the national guard in like circumstances.

HISTORY: New 1967, p. 189, Act 150, Imd. Eff. Jun. 30.

32.687 Michigan state troops; references.

Sec. 287. Reference to "Michigan state troops" in any law is construed as referring to the defense force.

HISTORY: New 1967, p. 189, Act 150, Imd. Eff. Jun. 30.

CHAPTER 5

ADMINISTRATION OF THE DEPARTMENT OF MILITARY AFFAIRS

32.700 Adjutant general; rank, powers and duties.

Sec. 300. The office of the adjutant general, with the rank of major general in the national guard, is created. He shall be the commanding general of the military establishment. Under the direction of the governor he is charged with the responsibility for the command, administration, logistics, training and fiscal direction of the military establishment. He may perform any act authorized by this chapter or the regulations issued pursuant to this chapter through or with the aid of such officers, officials or directors of the military department as he may designate. The adjutant general shall direct the planning for the organization and employment of the forces of the organized militia in carrying out their state military mission and establish unified command of state forces whenever they shall be jointly engaged.

HISTORY: New 1967, p. 189, Act 150, Imd. Eff. Jun. 30.

32.702 Adjutant general; appointment, qualifications, tenure, pay and allowances, oath of office.

Sec. 302. The governor shall appoint the adjutant general from among qualified federally recognized officers of the national guard. The adjutant general shall have served as an officer of field or general grade in the state military establishment for not less than 5 years prior to his appointment. He shall serve at the pleasure of the governor and unless sooner relieved, shall serve until he attains the age of 62. He shall receive pay and allowances equal to those of an active army or air force officer of like grade and service. Not later than 10 days after his appointment he shall file his constitutional oath of office with the secretary of state.

HISTORY: New 1967, p. 189, Act 150, Imd. Eff. Jun. 30.

32.704 Assistant adjutants general; army, air; appointment, qualifications, duties, pay and allowances, tenure.

Sec. 304. The adjutant general shall select from among the qualified federally recognized officers of the army national guard a principal assistant to be known as "assistant adjutant general for army" to supervise the training, administration and supply of the

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army national guard, and a principal assistant from the air national guard to be known as "assistant adjutant general for air" to supervise the training, administration and supply of the air national guard and each shall have the rank of brigadier general and receive pay and allowances equal to that of an active army or air force officer of like grade and service. Officers so appointed shall serve at the pleasure of the adjutant general.

HISTORY: New 1967, p. 190, Act 150, Imd. Eff. Jun. 30.

32.706 Adjutant general and assistant adjutants general; retirement.

Sec. 306. The adjutant general and the assistant adjutants general when relieved under honorable circumstances, shall be placed on the retired list of the national guard. The adjutant general and assistant adjutants general shall receive retirement pay equal to the retirement pay which an officer of like grade and total longevity would receive as indicated in appropriate federal regulations when they are retired or honorably relieved. Such retirement pay will start on the date of retirement or honorable relief from duty. Retirement under this section requires not less than 20 years active service with the national guard and/or state defense force. Any retirement pay received from the federal government for military service will be deducted when computing the amount received from the state. The deduction shall start on the first day of the month the officer becomes eligible for federal retirement. Once established, the amount of the deduction shall not be changed; however, it shall not deprive such a retired officer from receiving a total of state and federal pay equal to that authorized to officers of like grade and total longevity who are retired from the active federal armed forces.

HISTORY: New 1967, p. 190, Act 150, Imd. Eff. Jun. 30.

32.708 Adjutant general and assistant adjutants general; bonds, amounts, premiums, filing.

Sec. 308. The adjutant general shall give bond in the sum of $25,000.00 to the state conditioned upon the faithful performance of his duties. The assistant adjutants general shall give like bond in the sum of $10,000.00. If a surety bond is given, the premiums shall be paid out of funds appropriated for the premiums. The bonds shall be filed with the state treasurer.

HISTORY: New 1967, p. 190, Act 150, Imd. Eff. Jun. 30.

32.710 Adjutant general; duties, office, seal; authentication of orders, evidence.

Sec. 310. The adjutant general shall be the military advisor to the governor and may be the director of the department of military affairs. His office shall be maintained in Lansing. He is authorized to publish orders and other directives in the name of the governor and the state to implement and administer his duties and responsibilities as outlined in this statute. His duties shall include maintenance of the personnel records of all persons, active, inactive, retired and deceased of the state military establishment; liaison in the transaction of official business for the state with the United States and for this state with other states and territories, including those duties devolving upon him pursuant to the national defense act and other pertinent federal laws and regulations. He shall maintain records of claims for state gratuities for military service rendered by citizens of this state and, when authorized by the legislature, shall receive, examine, process and recommend the payment of gratuities in accordance with law. He shall be entitled to use the coat of arms of Michigan with the words added "State of Michigan, Department of Military Affairs" as his seal of office. All copies of orders, records and papers certified and authenticated under such seal shall be equivalent in evidence to the originals.

HISTORY: New 1967, p. 190, Act 150, Imd. Eff. Jun. 30.

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32.712 Quartermaster general; transfer of duties to adjutant general.

Sec. 312. All duties and responsibilities of the quartermaster general of the state under any law are transferred to the adjutant general.

HISTORY: New 1967, p. 191, Act 150, Imd. Eff. Jun. 30.

32.716 Federal aid, military facilities, insurance programs.

Sec. 316. The adjutant general shall plan, negotiate and contract with the federal government for the maintenance, remodeling, additions to and construction of armories and other military facilities within the state. He may receive and expend grants from federal sources for these purposes and may enter into agreements with agencies of the federal government for purposes of extending available insurance programs to members and employees of the state military establishment.

HISTORY: New 1967, p. 191, Act 150, Imd. Eff. Jun. 30.

32.718 Inspector general; appointment.

Sec. 318. The adjutant general shall appoint an inspector general of the military establishment.

HISTORY: New 1967, p. 191, Act 150, Imd. Eff. Jun. 30.

32.720 Staff judge advocate; appointment, qualifications, duties; military justice, claims.

Sec. 320. The adjutant general shall appoint as staff judge advocate an officer of the national guard, who shall be an attorney-at-law licensed to practice in this state. He shall perform the duties required of him in the administration of military justice or to perform other legal duties of an official nature. The adjutant general shall provide, within his office, for the administration of military justice as provided in the state code of military justice and shall administratively supervise the claims in behalf of personnel of the state military establishment and the public generally, as against the United States, or this state, under the federal tort claims act and other state and federal acts.

HISTORY: New 1967, p. 191, Act 150, Imd. Eff. Jun. 30.

32.726 Accounting of federal and state military funds and property; bonding of disbursing and distributing officers.

Sec. 326. The adjutant general in accordance with federal regulations shall direct the obligating, accounting, reporting, financial planning and administrative control of federally appropriated military funds allotted to this state and state funds allotted to the state military establishment. He shall direct the inventory and account of all military reservations, stores, magazines, arsenals, warehouses, armories, munitions of war and other military property. He may procure bonds from all disbursing and distributing officers and other officers in charge of military property.

HISTORY: New 1967, p. 191, Act 150, Imd. Eff. Jun. 30.

32.728 Civilian personnel; placement in classified civil service, call to special duty, pay and allowances.

Sec. 328. The adjutant general shall request such civilian positions and personnel of the military establishment as he deems necessary to be included in the classified state civil service. He shall also have the authority to call such officers and enlisted personnel as he may designate to special duty in the military department. Officers and enlisted personnel called to special duty shall receive pay and allowances equal to that of active army or air force personnel of like grade and service.

HISTORY: New 1967, p. 191, Act 150, Imd. Eff. Jun. 30.

32.730 Selective service; planning, training.

Sec. 330. The adjutant general is authorized and empowered, in time of peace and when a national system of selective service is not in operation, to plan for the selective service in case of future need, and in time of peace, may train personnel of the na-

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tional guard, contemplated for assignment to selective service duties in the proper discharge of such duties.

HISTORY: New 1967, p. 191, Act 150, Imd. Eff. Jun. 30.

32.732 Reports of survey for lost, damaged or destroyed federal property.

Sec. 332. The adjutant general shall be responsible for the processing of reports of survey, for lost, damaged or destroyed federal property loaned to this state for the use of the military establishment.

HISTORY: New 1967, p. 191, Act 150, Imd. Eff. Jun. 30.

32.734 Certificates of prior service.

Sec. 334. The adjutant general shall prepare and deliver to any person a certificate, over his seal and signature, showing the person's prior service in the state military establishment.

HISTORY: New 1967, p. 192, Act 150, Imd. Eff. Jun. 30.

32.736 Armories, air bases and naval installations; use of intoxicating liquor, local approval.

Sec. 336. The armories, air bases and naval installations erected, constructed and owned by the state, leased by the state or provided by the federal government by either lease, license or use permit, shall be for the use and benefit of the organized militia quartered therein. Organizations of the Spanish-American war veterans, veterans of foreign wars, the American legion and other war veterans' organizations, upon their written request to the adjutant general may be granted the use of state armories, subject to the rules governing the organized militia quartered therein and regulations of the military establishment. The use of such armories free of charge for all veterans' district or state conventions is authorized. The use by the organized militia or other military organizations of intoxicating liquors in the armories, air bases and naval installations of the military establishment is authorized. The adjutant general shall publish directives to insure proper control of such use and any officer or enlisted man guilty of violating these directives shall be punished as a court martial shall direct. With the approval of the legislative body of the political subdivision in which an armory, air base or naval installation is located, outside parties of a nonmilitary or state governmental nature may use or serve intoxicating liquors in conformity with rules and regulations of the liquor control commission, if not in violation of any other local ordinance, state or federal law or regulation.

HISTORY: New 1967, p. 192, Act 150, Imd. Eff. Jun. 30.

32.740 Adjutant general; preparation of federal and state reports and returns.

Sec. 340. The adjutant general shall make returns and prepare reports required by federal laws and regulations and shall submit a biennial report of the state military establishment to the governor and the legislature.

HISTORY: New 1967, p. 192, Act 150, Imd. Eff. Jun. 30.

CHAPTER 6

ARMORIES AND RESERVATIONS

32.750 Armories; acquisition, management, use.

Sec. 350. Armories shall be provided for the use of the state military establishment as training centers and for the storage and safekeeping of military supplies and equipment. Armories shall be acquired, managed and used as provided in this chapter.

HISTORY: New 1967, p. 192, Act 150, Imd. Eff. Jun. 30.

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32.752 Armories and military facilities; operation and control by adjutant general; application for funds.

Sec. 352. The operation and control of armories and other military facilities shall be in accordance with policies established by the adjutant general. He shall apply to the legislature and the federal government for funds for the purpose of operating and maintaining armories and other military facilities. He shall apply to the legislature, local units of government or the federal government for funds to acquire, construct, lease and equip armories and other military facilities.

HISTORY: New 1967, p. 192, Act 150, Imd. Eff. Jun. 30.

32.754 Armory boards of control; creation, duties; rental of armories to outside parties.

Sec. 354. An armory board of control may be created for each armory of the state military establishment, with the duty of operating and maintaining the armory pursuant to law and regulations promulgated by the adjutant general. The board of control may rent or otherwise authorize the use of the armory to outside parties for temporary purposes subject to regulations of the adjutant general.

HISTORY: New 1967, p. 192, Act 150, Imd. Eff. Jun. 30.

32.756 Armories and military facilities; subject to state sanitation, health, fire protection and prevention, and special regulations.

Sec. 356. State-owned or leased armories and other military buildings and appurtenances are subject to state laws and regulations with respect to sanitation, health, fire protection and prevention and such special regulations as the legislature or the governor may enact or adopt.

HISTORY: New 1967, p. 193, Act 150, Imd. Eff. Jun. 30.

32.760 State military board; members, appointment and duties, term.

Sec. 360. The state military board shall consist of 5 military or civilian members. The governor shall appoint the members who shall serve at the pleasure of the governor. The board shall perform in an advisory capacity in the preparation of plans and specifications for armory construction and of letting contracts for their erection and equipment in accordance with established state procedures. Administrative legal and engineering assistance required by the board shall be furnished by appropriate departments of the military establishment.

HISTORY: New 1967, p. 193, Act 150, Imd. Eff. Jun. 30.

32.762 Military board; first meeting, election of officers, quorum, rules and regulations.

Sec. 362. The state military board, immediately upon its appointment, shall meet, organize and promulgate rules and regulations in accordance with this act to carry out its duties. At the first meeting and annually thereafter, the board shall elect from its members a chairman and a vice-chairman to serve for 1 year and until their successors are elected and qualified. No action shall be taken by the board by less than a majority of its authorized members.

HISTORY: New 1967, p. 193, Act 150, Imd. Eff. Jun. 30.

32.764 Military board members; compensation, expenses.

Sec. 364. A member of the board shall not receive salary for his services but shall be reimbursed for his actual and necessary expenses incurred in the performance of his duties as a member.

HISTORY: New 1967, p. 193, Act 150, Imd. Eff. Jun. 30.

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32.766 Military board; convening, approval of actions by governor, office, receipt and expenditure of funds.

Sec. 366. The board shall convene at the call of the adjutant general or pursuant to its own initiative. Actions of the board shall be submitted to the adjutant general and through him to the governor for approval. The office of the board shall be located in the Michigan National Guard Armory at Lansing. The board may program, request, receive and spend funds through the military establishment it deems necessary for carrying out the provisions of this chapter.

HISTORY: New 1967, p. 193, Act 150, Imd. Eff. Jun. 30.

32.768 Military board; acceptance of gifts, purpose; acceptance and execution of deeds.

Sec. 368. The state military board may receive from the federal and local governments, corporations, individuals or other sources, gifts of property and money to aid in providing, erecting or improving armories, training areas and other surrounding lands throughout the state for the use of the state military establishment. When a deed to land has been presented to the board and accepted by it for an armory site and the board deems it necessary to change the location of the site, the board may accept a new deed or relinquish the rights of the state in the lands covered by the prior deed without prejudice to the right of priority of the local government to the erection of an armory on the land. The state military board has authority to do any act and execute any deeds to carry out the provisions of this act.

HISTORY: New 1967, p. 193, Act 150, Imd. Eff. Jun. 30.

32.772 Title to real property.

Sec. 372. The state military board may take title to real property to be used for military purposes in the name of the state.

HISTORY: New 1967, p. 193, Act 150, Imd. Eff. Jun. 30.

32.774 Condemnation of property for military purposes; procedure.

Sec. 374. The state military board may condemn property for armory building sites and military training areas in accordance with the statutes of the state of Michigan.

HISTORY: New 1967, p. 194, Act 150, Imd. Eff. Jun. 30.

32.776 Granting of easements; public utilities, restrictions.

Sec. 376. The state military board may grant easements under and over any state-owned real property under the jurisdiction and control of the state military establishment. An easement shall not be granted for the benefit of a public utility unless the board determines that it is in the public interest and will not adversely affect the use of the property for military purposes.

HISTORY: New 1967, p. 194, Act 150, Imd. Eff. Jun. 30.

32.778 Exchange of property for erection of armory; procedure, reconveyance.

Sec. 378. When a site is deeded to the state for the erection of an armory, and thereafter any person or local government or combination of local governments wish to deed to the state another site, and the state military board after inspection believes that the new site is superior to the old site, the state military board may accept the new site after an examination of the title has been made by the attorney general, and deed the old site to the grantor deeding the new site to the state.

HISTORY: New 1967, p. 194, Act 150, Imd. Eff. Jun. 30.

32.780 Local zoning ordinances; applicability; conformance to local government master plan.

Sec. 380. State-owned or leased armories and accessory buildings, military warehouses, arsenals and storage facilities for military equipment, and lands and appurte-

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nances required for the construction of armories or buildings, are not subject to zoning or building ordinances of any local government. The state military board shall take cognizance of local zoning ordinances and restrictions in the selection and acceptance of lands for armory or other military buildings and shall conform as nearly as possible to master plans of the local governments where it may be done without impairing the convenience and usefulness of the armories and buildings.

HISTORY: New 1967, p. 194, Act 150, Imd. Eff. Jun. 30.

32.782 Armories and military facilities; disposal, approval by legislature.

Sec. 382. Disposal of armories and other military state-owned facilities shall be in accordance with policies established by the military board. Each disposal action shall be subject to approval by the state legislature.

HISTORY: New 1967, p. 194, Act 150, Imd. Eff. Jun. 30.

32.784 Camp Grayling military reservation; title.

Sec. 384. The state military board shall hold title to the camp Grayling military reservation under the terms of the deed from the Hanson estate and in accordance with the provisions of Act No. 172 of the Public Acts of 1913, as amended, being sections 32.221 to 32.226 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 194, Act 150, Imd. Eff. Jun. 30.

32.788 Camp Grayling; transfer; control, exchange or sale of lands; approval of legislature.

Sec. 388. The department of conservation shall transfer to the state military board such lands under its control as competent authority shall direct. These lands shall form a part of the camp Grayling military reservation and shall be supervised and controlled by the adjutant general, except that hunting shall not be prohibited on the lands. The state military board may with approval of the legislature exchange or sell any lands transferred to it under this act in order to obtain any other lands, oil and mineral rights excepted, whether owned by private interests or by the United States government, within the external boundaries of the camp Grayling military reservation as enlarged by this act, and may make all necessary conveyances to effect the exchanges and sales.

HISTORY: New 1967, p. 194, Act 150, Imd. Eff. Jun. 30.

32.790 Military board; biennial report to adjutant general and governor.

Sec. 390. Biennially, the board shall report its proceedings to the adjutant general and through him to the governor. The adjutant general may include portions of the report in his biennial report.

HISTORY: New 1967, p. 194, Act 150, Imd. Eff. Jun. 30.

CHAPTER 7

RETIREMENT

32.801 Retirement; national guard and defense force personnel.

Sec. 401. Except in time of war or national emergency declared by the congress of the United States, officers, warrant officers and enlisted personnel shall be retired at the highest rank they have held, from active service with the national guard prior to/or upon reaching age 62, and their names shall be placed on the state military retired list. Officers, warrant officers and enlisted personnel of the defense force serving this state during an emergency or war are eligible for retirement and enrollment on the state military retired list under the same conditions as apply to officers, warrant officers and enlisted personnel of the national guard.

HISTORY: New 1967, p. 195, Act 150, Imd. Eff. Jun. 30.

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32.803 Officers; transfers to the inactive national guard; discharge upon resignation.

Sec. 403. An officer not being under charges may be transferred to the inactive national guard, as provided by federal law and regulation, on his own application, or upon acceptance of his resignation he may be discharged.

HISTORY: New 1967, p. 195, Act 150, Imd. Eff. Jun. 30.

32.805 Retired national guard officers; enrollment on military retirement list.

Sec. 405. An officer who has served in the national guard, upon honorable retirement from active service whether on his own application or otherwise, may be carried on the state military retired list maintained in the office of the adjutant general.

HISTORY: New 1967, p. 195, Act 150, Imd. Eff. Jun. 30.

32.806 Retired personnel; return to active service, removal from military retirement list.

Sec. 406. If due to a change of physical condition or a change in federal law, rule or regulation, a retired person again becomes eligible for service in the Michigan national guard or defense forces, and for federal recognition in the case of officers, and becomes active in the Michigan national guard or defense force, his name shall be removed from the retired list without prejudice to him.

HISTORY: New 1967, p. 195, Act 150, Imd. Eff. Jun. 30.

32.807 Retired personnel; pay or emoluments; recall to active duty; restoration to retirement status.

Sec. 407. Except as otherwise provided in this act, no person on the state military retired list is entitled to receive any pay or emolument from the state for military duty during the time he remains on the retired list. Nothing in this act shall be construed to prohibit the governor from recalling to active service an officer theretofore or hereafter retired or from temporarily removing the officer from the retired list for the purpose of recalling or recommissioning such officer for active service. The officer so recalled to active service or recommissioned shall be restored to his prior retirement status in the same or higher attained rank when he is relieved and applies for such retirement.

HISTORY: New 1967, p. 195, Act 150, Imd. Eff. Jun. 30.

32.809 Retired officers; eligibility for court detail or other specific temporary special duty; compensation; restoration to retirement status.

Sec. 409. Any retired officer is eligible for detail to any court constituted under orders of the governor and for any other specific temporary special duty for periods not to exceed 30 days without his consent when so ordered by the governor with pay and allowances of his rank when retired. His retired pay is suspended during the period he is serving on such special duty. The officer so recalled shall be restored to his prior retirement rank and status when relieved from such special duty.

HISTORY: New 1967, p. 195, Act 150, Imd. Eff. Jun. 30.

32.810 Retirement from special duty; basis for retirement pay; active service required; pay deductions; effective date of benefits.

Sec. 410. Officers and enlisted men retired from special duty with the military establishment because of having reached maximum age, or because of any federal law or regulation shall receive retirement pay equal to that authorized to personnel of like grade, rank and longevity who are retired from the active federal armed forces by appropriate federal regulation. Retirement under this section requires not less than 20 years active service with the national guard and/or state defense force. Any retirement pay received from the federal government for military service will be deducted

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when computing the amount received from the state. The deduction shall start on the first day of the month the person becomes eligible for federal retirement. Once established, the amount of the deduction shall not be changed; however, it shall not deprive such a retired person from receiving a total of state and federal pay equal to that authorized to personnel of like grade, rank and total longevity who are retired from the active federal armed forces. These retirement benefits from the state will be effective on the date of retirement.

HISTORY: New 1967, p. 195, Act 150, Imd. Eff. Jun. 30.

32.811 Retirement after twenty years service; eligibility.

Sec. 411. A person who has completed not less than 20 years active service with the national guard or defense force or both may be retired and receive retirement pay under any one of the following circumstances:

(a) Attainment of age 62.

(b) Ineligibility, by reason of federal law or regulation, for further federal recognition in his then grade by reason of his age or length of service, and termination of his commission or enlistment in the national guard of the United States.

(c) Withdrawal of his federal recognition and termination of his commission or enlistment in the national guard of the United States by reason of physical disqualification for further service.

(d) Separation from the national guard or defense force under any honorable circumstance. A person retired under provisions of (a) above shall receive pay of $600.00 per year upon reaching age 62. Persons retired under provisions of (b), (c) or (d) above shall receive pay of $600.00 per year upon reaching age 60.

HISTORY: New 1967, p. 196, Act 150, Imd. Eff. Jun. 30.

32.815 Retirement pay; limitations on eligibility.

Sec. 415. Any person receiving retirement pay under the provisions of sections 306, 410 or 431 shall not be eligible for retirement pay under provisions of section 411.

HISTORY: New 1967, p. 196, Act 150, Imd. Eff. Jun. 30.

32.817 Active service; definition.

Sec. 417. For the purposes of establishing eligibility for retirement pay, "active service" shall consist of any of the following:

(a) Active service in the Michigan national guard or Michigan defense force as an officer or enlisted man or both.

(b) Federal service in response to a call or order of the president in time of declared national emergency when such service is not voluntary.

(c) Voluntary active duty in the service of the United States by members of the state military establishment, not in response to a call or order of the president in time of declared national emergency, shall be considered as active service only when such duty is in support of a national guard mission. Any fractional part of a year amounting to 6 months or more is counted as a complete year. Active service is terminated by an honorable separation from the Michigan national guard or defense force.

HISTORY: New 1967, p. 196, Act 150, Imd. Eff. Jun. 30.

32.821 Special retirement boards; members, duties, findings and recommendations, approval by governor.

Sec. 421. Applications for retirement under this act shall be referred to a special retirement board of officers detailed by order of the governor. The board shall consist of not less than 3 nor more than 5 officers, preferably of grade senior to the applicant for or subject to retirement. The retirement boards shall perform the same duties with relation to retirement as performed by similar boards appointed or detailed under the

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regulations of the regular military service of the United States. The findings and recommendations of retirement boards are subject to the approval of the governor.

HISTORY: New 1967, p. 196, Act 150, Imd. Eff. Jun. 30.

32.825 Retirement of full time employees of military establishment; exceptions; state employees' retirement system.

Sec. 425. Full-time employees of the military establishment, except the adjutant general, the assistant adjutants general and persons holding other unclassified military positions, shall receive retirement as provided for in the Michigan state employees' retirement system.

HISTORY: New 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

32.831 Previously retired personnel; retirement pay; deductions; service credits, accrual.

Sec. 431. The retired status of officers, warrant officers and enlisted personnel previously retired under the provisions of Act No. 84 of the Public Acts of 1909, as amended, being sections 32.1 to 32.85 of the Compiled Laws of 1948, shall be continued under the provisions of this act, but the rate of such retirement pay shall not be increased or decreased because of the provisions of this act. The deductions made from retirement pay by evidence of federal retirement as provided in section 49c of Act No. 84 of the Public Acts of 1909, as presently or subsequently established shall remain the same and shall not change the retirement pay received from the state. Personnel of the military establishment who, on the effective date of this act, have been members of the national guard or defense force or both for a period of not less than 15 years, shall receive service credits earned and shall continue to accrue credits for retirement purposes under the provisions of Act No. 84 of the Public Acts of 1909, as amended, which requires 10 years of actual duty service. Retirement compensation of warrant officers and enlisted men shall be computed in the same manner as retirement compensation of officers notwithstanding the provisions of section 49 of Act No. 84 of the Public Acts of 1909, being section 32.49 of the Compiled Laws of 1948. Those persons who have not had 15 years service with the national guard or defense force on the effective date of this act shall not continue to accrue service credits toward retirement under previous legislation unless they are full-time employees of the state military establishment as provided in this act.

HISTORY: New 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

32.833 Military personnel transferred to state civil service; election of retirement system; service credits, computation.

Sec. 433. Each officer, warrant officer or enlisted man who enters a civilian position and is transferred to state civil service by virtue of this act and who has not less than 5 years of actual duty service as defined in Act No. 84 of the Public Acts of 1909, as amended, shall make a written statement within 60 days of the effective enactment date of this act, declaring whether he elects to remain under the military retirement system as outlined in Act No. 84 of the Public Acts of 1909, as amended, or transfer his retirement credits to the state employees' retirement system. Credits shall be so transferred without the employee being required to pay back employee costs and such credits shall be credited as employed years when computing retirement under the state employees' retirement system.

HISTORY: New 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

32.835 Retirement pay at age sixty; eligibility; deductions from state benefits.

Sec. 435. Those eligible on or after the effective date of this act as provided in Act No. 84 of the Public Acts of 1909, as amended, shall receive retirement pay upon reaching age 60, provided they have been separated from the national guard or de-

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fense force for age, physical reasons or as a result of federal law or regulation and such separation was honorable and not self-generated. Deduction from state benefits made on evidence at federal retirement as provided in section 49c of Act No. 84 of the Public Acts of 1909, as amended by Act No. 134 of the Public Acts of 1952, shall continue to be made.

HISTORY: New 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

32.851 Repeals.

Sec. 451. Sections 1 to 7, 7a, 7b, 7c, 8 to 33, 36 to 41, 43, 44, 45, 45a, 45c, 46, 47, 47a, 48, 50 to 53, 61 to 66, 68 to 81, 83 and 85 of Act No. 84 of the Public Acts of 1909, as amended, being sections 32.1 to 32.7, 32.7a, 32.7b, 32.7c, 32.8 to 32.33, 32.36 to 32.41, 32.43, 32.44, 32.45, 32.45a, 32.45c, 32.46, 32.47, 32.47a, 32.48, 32.50 to 32.53, 32.61 to 32.66, 32.68 to 32.81, 32.83 and 32.85 of the Compiled Laws of 1948, Act No. 237 of the Public Acts of 1909, being section 32.141 of the Compiled Laws of 1948, Act No. 198 of the Public Acts of 1909, being section 32.121 of the Compiled Laws of 1948, Act No. 174 of the Public Acts of 1909, being sections 32.151 to 32.153 of the Compiled Laws of 1948, Act No. 200 of the Public Acts of 1909, being section 32.171 of the Compiled Laws of 1948, Act No. 7 of the Public Acts of 1912, being sections 32.191 to 32.195 of the Compiled Laws of 1948, Act No. 6 of the Public Acts of 1899, being section 32.201 of the Compiled Laws of 1948, Act No. 250 of the Public Acts of 1915, being sections 32.211 and 32.212 of the Compiled Laws of 1948, section 4 of Act No. 172 of the Public Acts of 1913, as amended by Act No. 31 of the Public Acts of 1952, being section 32.224 of the Compiled Laws of 1948 and Act No. 345 of the Public Acts of 1927, being sections 32.251 to 32.256 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1967, p. 197, Act 150, Imd. Eff. Jun. 30.

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CHAPTER 33. NAVAL MILITIA

NAVAL MILITIA

Act 184 of 1893

33.1 Naval militia; enrollment classifications.
33.2 Enrollment provisions applicable; compensation.
33.9 Naval militia; separate from land force.
33.10 Naval militia; temporary attachment to Michigan national guard.
33.11 Naval militia; organization.
33.17, 33.18 Repealed.
33.23 Commissioned officers; appointment, commission, discharge, extension of commission.
33.27 Regulations to have force of law.
33.29 United States navy officer; assignment to naval brigade; rank and duty.
33.31 State naval forces; instruction and drill.
33.32 Naval brigade battalions and divisions; incorporation.
33.33 Honorary commissions; issuance by governor.
33.34-33.36 Repealed.
33.37 Laws and regulations applicable; construction.
33.38 Naval forces; equipment, rental of armory.

Act 184, 1893, p. 288; Imd. Eff. May 31.

AN ACT to provide for the enrollment, organization, equipment, maintenance and discipline of the naval militia of the state.

The People of the State of Michigan enact:

33.1 Naval militia; enrollment classifications.

Sec. 1. That whenever in conformity with the laws of this state, an enrollment of all persons subject to military duty shall be ordered and made, it shall be the duty of all officials and persons charged with the making of such enrollment to separately enroll and designate in all such counties or districts as the commander-in-chief shall designate, all persons liable for military duty under the laws of this state who shall be included in any of the following classifications, that is to say:

First, All seafaring men of whatever calling or occupation;

Second, All persons engaged in navigation of the lakes, rivers or other waters of this state;

Third, All persons engaged in the construction or management of ships or crafts (or any part thereof) upon such waters;

Fourth, All ship owners and their employes;

Fifth, All yacht owners;

Sixth, All members of yacht clubs and other organizations formed for the pursuit of aquatic sports and pastimes; and

Seventh, All ex-officers and former enlisted men of the United States navy, which said separate enrollment and designation shall be made and returned in like manner as provided by law for the enrollment and return of the names of persons liable for military duty under the laws of this state: Provided, however, That all persons included within the fourth and sixth classifications above given and not included within any of the others of said classifications may, if they shall so elect, be included in the general enrollment of persons liable for military duty in the land forces of the militia, instead of in a separate enrollment and designation provided for by the terms of this act.

HISTORY: CL 1897, 1716;—CL 1915, 1000;—CL 1929, 764;—CL 1948, 33.1.

CITED IN OTHER SECTIONS: Sections 33.1 to 33.38 are cited in § 16.228.

33.2 Enrollment provisions applicable; compensation.

Sec. 2. For making and returning such separate enrollment and designation, all officials and other persons charged therewith shall receive the same fees and compensation, to be paid in the same manner, as are prescribed by law for the making and re-

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turn of the general enrollment of persons liable for military duty; and all other provisions of law relative to the making and returning of such enrollment and the powers and duties of officials and other persons charged therewith shall be equally applicable to the making and returning of the separate enrollment and designation provided for by the terms of this act, and to all officials and other persons charged therewith and to any default or neglect of any official or other person charged therewith, unless expressly provided to the contrary by the terms of this act.

HISTORY: CL 1897, 1717;—CL 1915, 1001;—CL 1929, 765;—CL 1948, 33.2.

Secs. 3-8.

HISTORY: CL 1897, 1718-1723;—Sec. 5 Am. 1909, p. 168, Act 90, Imd. Eff. May 13;—CL 1915, 1002-7;—Rep. 1917, p. 271, Act 149, Imd. Eff. April 27.

33.9 Naval militia; separate from land force.

Sec. 9. Such portion of the militia of Michigan as may be organized as a naval force shall be separate and distinct from that portion organized as a land force.

HISTORY: CL 1897, 1724;—Am. 1911, p. 119, Act 84, Imd. Eff. April 14;—CL 1915, 1008;—Am. 1917, p. 272, Act 149, Imd. Eff. April 27;—CL 1929, 766;—CL 1948, 33.9.

33.10 Naval militia; temporary attachment to Michigan national guard.

Sec. 10. For temporary military purposes in cases of actual service, the naval forces of Michigan, or any part or subdivision thereof, may be attached to organizations of the Michigan national guard.

HISTORY: CL 1897, 1725;—CL 1915, 1009;—Am. 1917, p. 272, Act 149, Imd. Eff. April 27;—CL 1929, 767;—CL 1948, 33.10.

33.11 Naval militia; organization.

Sec. 11. The militia organized as a naval force shall be organized as far as practicable in conformity with plans for naval organizations of militia prescribed from time to time by the navy department.

HISTORY: CL 1897, 1726;—Am. 1909, p. 169, Act 90, Imd. Eff. May 13;—Am. 1911, p. 120, Act 84, Imd. Eff. April 14;—CL 1915, 1010;—Am. 1917, p. 272, Act 149, Imd. Eff. April 27;—CL 1929, 768;—CL 1948, 33.11.

Secs. 12-16.

HISTORY: CL 1897, 1727-31;—Secs. 12 and 14 Am. 1909, p. 169, Act 90, Imd. Eff. May 13;—Am. 1911, p. 120, Act 84, Imd. Eff. April 14;—Sec. 13 Rep. 1909, p. 168, Act 90, Imd. Eff. May 13;—CL 1915, 1011-14;—Sec. 12, 14-16, Rep. 1917, p. 271, Act 149, Imd. Eff. April 27.

33.17, 33.18 Repealed. 1969, p. 110, Act 60, Imd. Eff. Jul. 21.

Sections related to compensation, forfeitures and charge to counties, reduced by U.S. compensation to naval militia.

Secs. 19-22.

HISTORY: CL 1897, 1734-37;—Secs. 19, 20, 22 Am. 1909, pp. 171-2, Act 90, Imd. Eff. May 13;—Secs. 20 and 21 Am. 1911, p. 122, Act 84, Imd. Eff. April 14;—Sec. 22 Rep. 1911, p. 119, Act 84, Imd. Eff. April 14;—CL 1915, 1017-9;—Secs. 19-21 Rep. 1917, p. 271, Act 149, Imd. Eff. April 27.

33.23 Commissioned officers; appointment, commission, discharge, extension of commission.

Sec. 23. Commissioned officers shall be appointed or selected as prescribed from time to time in regulations. Commissioned officers shall be commissioned by the governor. Any person now commissioned under the provisions of this act for a period of 5 years or more is discharged and relieved from his commission upon the effective date of this 1969 amendatory act unless a request is made in writing for an extension of the commission and the request is granted and the extension given.

HISTORY: CL 1897, 1738;—CL 1915, 1020;—Am. 1917, p. 272, Act 149, Imd. Eff. Apr. 27;—CL 1929, 771;—CL 1948, 33.23;—Am. 1969, p. 110, Act 60, Imd. Eff. Jul. 21.

Secs. 24-26.

HISTORY: CL 1897, 1739-41;—Sec. 26 Am. 1911, p. 122, Act 84, Imd. Eff. April 14;—CL 1915, 1021-1023;—Rep. 1917, p. 271, Act 149, Imd. Eff. April 27.

33.27 Regulations to have force of law.

Sec. 27. Regulations to carry out the various provisions of this act, or the requirements of any act of congress, or of the navy department of the United States, may be from time to time prescribed, changed, altered, amended, repealed, or revoked, as deemed requisite, desirable, or necessary, and such regulations and changes therein,

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when approved by the governor and filed in the office of the secretary of state, shall have the force and effect of law.

HISTORY: CL 1897, 1742;—CL 1915, 1024;—Am. 1917, p. 272, Act 149, Imd. Eff. April 27;—CL 1929, 772;—CL 1948, 33.27.

Sec. 28.

HISTORY: CL 1897, 1743;—Am. 1911, p. 123, Act 84, Imd. Eff. April 14;—CL 1915, 1025;—Rep. 1917, p. 271, Act 149, Imd. Eff. April 27.

33.29 United States navy officer; assignment to naval brigade; rank and duty.

Sec. 29. The commander-in-chief shall have power to assign any officer, warrant or petty officer, or seaman of the United States navy detailed for or assigned to duty with the naval brigade as instructor or otherwise, to such duties as he may deem proper and suitable, and shall have power to confer upon any such officer, warrant or petty officer, or seaman, such rank in the naval service of the state during such detail or assignment as he may deem best.

HISTORY: CL 1897, 1744;—CL 1915, 1026;—CL 1929, 773;—CL 1948, 33.29.

Sec. 30.

HISTORY: CL 1897, 1745;—Am. 1911, p. 123, Act 84, Imd. Eff. April 14;—CL 1915, 1027;—Rep. 1917, p. 271, Act 149, Imd. Eff. April 27.

33.31 State naval forces; instruction and drill.

Sec. 31. The governor may order into service for instruction and drill any portion or all of the naval forces of this state, the same to be performed either within or without the limits of the state of Michigan, and either on shore or afloat, as may be directed, authorized, or advisable.

HISTORY: CL 1897, 1746;—Am. 1911, p. 123, Act 84, Imd. Eff. April 14;—CL 1915, 1028;—Am. 1917, p. 272, Act 149, Imd. Eff. April 27;—CL 1929, 774;—CL 1948, 33.31.

33.32 Naval brigade battalions and divisions; incorporation.

Sec. 32. Battalions and divisions of the naval brigade may become incorporated in like manner as prescribed by law for the incorporation of regiments or companies of the land forces of the state troops, and all provisions of law relating to such incorporation or the consolidation of existing incorporations, or the powers and duties of corporate bodies formed under such laws, shall apply equally to battalions or divisions of the naval brigade.

HISTORY: CL 1897, 1747;—CL 1915, 1029;—CL 1929, 775;—CL 1948, 33.32.

33.33 Honorary commissions; issuance by governor.

Sec. 33. The governor may issue honorary commissions at his pleasure to individuals who will promote the best interests of the state, particularly in the areas of water safety, water recreational facilities, boating facilities and improved marine recreational developments and assist in the promotion and expansion of recruiting, training and educational facilities of marine oriented associations.

HISTORY: CL 1897, 1748;—CL 1915, 1030;—CL 1929, 776;—CL 1948, 33.33;—Am. 1969, p. 110, Act 60, Imd. Eff. Jul. 21.

33.34-33.36 Repealed. 1969, p. 110, Act 60, Imd. Eff. Jul. 21.

Sections related to state naval board contracts, compensation, duties and per capita tax collection and disbursement.

33.37 Laws and regulations applicable; construction.

Sec. 37. This act shall be deemed to be supplemental to the existing laws governing and affecting the militia and national guard of the state, and all provisions of law relating to the government, maintenance, equipment and discipline thereof shall apply equally to and govern the naval forces as a portion thereof, unless such provisions of law be inconsistent with the different nature of the service or contrary to the express provisions of this act. In construing such provisions of law, words or language strictly applicable to the land or military forces alone, by reason of their meaning, and having an equivalent in naval parlance, shall be construed and interpreted as meaning and intending such equivalent words or language. Whenever the laws of the state governing

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or affecting the militia or national guard, the laws of the United States relating to the government or discipline of the army of the United States, or the articles of war, or regulations governing the army, are referred to and made applicable to the national guard, the same shall be construed to mean, when applied to the naval forces, the laws of the United States relating to the government or discipline of the navy of the United States, or the articles of war of the navy, or the rules and regulations governing the navy, as the case may be.

HISTORY: CL 1897, 1752;—CL 1915, 1034;—Am. 1917, p. 274, Act 149, Imd. Eff. April 27;—CL 1929, 780;—CL 1948, 33.37.

33.38 Naval forces; equipment, rental of armory.

Sec. 38. The quartermaster general, on written requisition by the commanding officer of any division or subdivision of the naval forces of the state, duly approved by the commander of the battalion, shall furnish to such organization suitable uniforms, arms and equipment, including all suitable and proper armory equipment, and shall furnish to such organizations not equipped with an armory furnished by the state, a sum equal to the actual rental paid by such organization for armory accommodation, which shall include lighting, heating and janitor service: Provided, Such sum shall in no case exceed 1,500 dollars per year; and shall furnish to each organization of the naval forces of the state equipped with or sharing an armory furnished by the state, the cost of its proportion thereof of care and maintenance of such armory.

HISTORY: Add. 1909, p. 173, Act 90, Imd. Eff. May 13;—Am. 1911, p. 125, Act 84, Imd. Eff. April 14;—CL 1915, 1035;—Am. 1917, p. 275, Act 149, Imd. Eff. April 27;—CL 1929, 781;—CL 1948, 33.38.

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CHAPTER 35. VETERANS AND MEMBERS OF ARMED FORCES

OFFICE OF VETERANS' AFFAIRS
Act 26 of 1944 (1st Ex. Ses.)

35.1-35.7 Repealed.

LOCAL COUNCILS OF VETERANS' AFFAIRS
Act 77 of 1945

35.11 Local councils of veterans' affairs; appropriations.

VETERANS' RELIEF FUND
Act 214 of 1899

35.21 Veterans' relief fund; county tax, appropriation; disbursement.
35.22 Soldiers' relief commission; membership, appointment, terms, officers, vacancies, oaths of office, compensation, powers and duties, removal.
35.23 Soldiers' relief commission; determination of amounts to be granted and manner of payment; judicial review.
35.24 Emergency relief provision; limitations.
35.25 Soldiers' relief commission; annual report, contents.
35.26 Unexpended funds; transfer to general fund.
35.27 Soldiers' relief commission; administration of oaths.

RECORD OF VETERANS' DISCHARGES
Act 83 of 1867

35.31 County record book for discharges from armed forces; provision.
35.32 County record book for discharges from armed forces; county clerk, duties, compensation, report.
35.35 County record book for discharges from armed forces; certified copy admissible as evidence.

TRANSCRIPTS OF CERTAIN RECORDS
Act 243 of 1919

35.41 Veterans; transcripts of certain records issued without fee.

FEES FOR OATHS AND CERTIFICATES
Act 161 of 1871

35.51 Fees for oaths and certificates to discharged soldier or sailor; maximum.
35.52 Fees for oaths and certificates to widow of deceased soldier or sailor; maximum.
35.53 Violation of act; penalty.

UNIFORMITY OF SERVICE DATES
Act 190 of 1965

35.61 Uniformity of service dates; definitions.
35.62 Combination of active duty service days.

VETERANS' GUARDIANSHIP ACT
Act 321 of 1937

35.71 Definitions.
35.72 Guardians; manner of appointment.
35.73 Administrator of veterans' affairs; interested party in proceedings for appointment of guardian; notice, hearing; limitation on number of wards.
35.74 Guardians; petition for appointment, filing, content.
35.75 Guardian for minor; prima facie evidence of necessity.
35.76 Guardian for incompetent; prima facie evidence of necessity.
35.77 Guardians; notice of filing petition for appointment.
35.78 Guardians; bonds, execution and filing; corporate guardians, exemption; sureties.
35.79 Guardians; annual accounting; filing, notice, hearing.
35.80 Guardians; failure to file account, penalty.
35.81 Guardians; compensation; notice and hearing.
35.82 Guardians; investments permitted with prior approval of court.
35.82i Corporate guardians; common trust fund investments permitted.
35.83 Maintenance and support of ward.
35.84 Purchase of home for ward.
35.85 Guardian; discharge, release of sureties.
35.85a Successor corporate guardians; appointment, conditions and procedure.
35.86 Insane veteran; commitment, procedure.
35.86a Veteran of unsound mind or otherwise in need of confinement; commitment, procedure; transfer.
35.87 Construction of act.
35.88 Uniform veterans' guardianship act; short title.
35.90 Modification and repeals of prior law.
35.91 Application of act as to surety bonds, administration of estates, and investments; liability of guardian, liquidation of investments.

EDUCATION OF CHILDREN OF VETERANS
Act 245 of 1935

35.111 Children of deceased or disabled veterans; educational aid.
35.112 Michigan veterans' trust fund board of trustees; determination of eligibility for educational aid, rules and regulations, appropriations.

VETERANS' INSTITUTES
Act 182 of 1945

35.121-35.126 Repealed.

STATE AID, VETERANS' EDUCATION
Act 331 of 1945

35.131-35.133 Repealed.

Act 199 of 1959

35.181-35.183 Expired.

ALPHABETICAL INDEX, WAR OF REBELLION
Act 165 of 1913

35.191, 35.192 Repealed.

ENROLLMENT OF MICHIGAN MEN
Act 203 of 1885

35.201, 35.202 Repealed.

GRAND ARMY OF THE REPUBLIC
Act 37 of 1883

35.211-35.218 Repealed.

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WOMEN'S RELIEF CORPS, GRAND ARMY OF THE REPUBLIC
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35.221 Women's Relief Corps auxiliary to Grand Army of the Republic; incorporation.
35.222 Women's Relief Corps; articles of association; execution, contents.
35.223 Articles of association; filing; body corporate, powers and property limitations.
35.224 Articles of association; certified copy as evidence.
35.225 Subordinate corps; chartering, government.
35.226 Subordinate corps; incorporation; body corporate, powers and duties; certified copy of articles of association as evidence.
35.227 Governing law.

VETERANS' HEADQUARTERS
Act 8 of 1897
35.231 Michigan veterans' headquarters; custodian, appointment; records, access; Grand Army of the Republic commemoration plaque.
35.232 Veterans' headquarters custodian; compensation, expenses, annual report; Michigan historical commission, preservation of records.

SONS OF VETERANS
Act 146 of 1893
35.241-35.248 Repealed.

LADIES' AID SOCIETY, SONS OF VETERANS
Act 147 of 1893
35.251-35.257 Repealed.

LOYAL LEGION
Act 36 of 1903
35.261-35.265 Repealed.

UNITED SPANISH WAR VETERANS
Act 174 of 1931
35.271 United Spanish war veterans; incorporation.
35.272 United Spanish war veterans; articles of association, execution, contents.
35.273 Articles of association and rules and regulations; filing; body corporate, powers and duties; trust property; by-laws.
35.274 Articles of association; certified copy admissible as evidence.
35.275 United Spanish war veterans; power to charter and govern camps.
35.276 Subordinate camps; incorporation; articles of association, execution; body corporate, powers and duties; certified copy of articles as evidence.
35.277 United Spanish war veterans corporation; erection of buildings and memorials; joint construction with public corporation; cemeteries.
35.278 Application of general corporation act.

SPANISH WAR VETERANS, CAPITOL HEADQUARTERS
Act 71 of 1915
35.281 Spanish war veterans' headquarters; maintenance; department commander in charge; records, access.
35.282 Department commander; annual report to governor; contents, printing, distribution.

UNITED SPANISH WAR VETERANS, HEADQUARTERS
Act 265 of 1929
35.291 United Spanish war veterans' headquarters; maintenance; department commander in charge; records, access.
35.292 Department commander; annual report to governor; contents, printing, distribution.

SPANISH WAR SOLDIERS' AID FUND
Act 134 of 1899
35.301-35.308 Repealed.

UNITED SPANISH WAR VETERANS MEMORIAL HIGHWAY
Act 207 of 1945
35.311 United Spanish war veterans' memorial highway; location.
35.312 Memorial highway; markers.

MEDALS TO SPANISH WAR VETERANS
Act 223 of 1901
35.321-35.325 Repealed.

WORLD WAR VETERANS
Act 408 of 1919
35.331-35.338 Repealed.

PUBLIC EMPLOYEES ENTERING ARMED FORCES
Act 263 of 1951
35.351 Definitions.
35.352 Public employees entering military duty; reemployment, restoration or placement in other position or department.
35.353 Reemployment of public employees; subsequent discharge; seniority; insurance and other benefits.
35.354 Public employee; leave of absence for induction in military service.
35.355 Enforcement of act; regulations; responsibility of official agency; noncompliance by public employer, hearing; officials responsible for reinstatement.
35.356 Laws inapplicable.

PREFERENCE IN EMPLOYMENT
Act 205 of 1897
35.401 Veterans; preference for public employment; qualifications; county civil service laws.
35.402 Veterans; removal, suspension or transfer from public employment; notice, hearing; protest, waiver; reinstatement, compensation.
35.402a Veterans; military service counted as period of employment.
35.403 Violation of act; penalty.
35.404 Veterans; rejection of application for public employment, remedy.

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Act 344 of 1919
35.431 Repealed.

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Act 359 of 1921
35.441 Peddler's license; issuance to veterans; term, qualifications.
35.442 Peddler's license; issuance by county clerk without charge; records; transferability.

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35.443 Construction of act.

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35.461 Person in military or naval uniform; discrimination prohibited.

35.462 Person in military or naval uniform; discrimination, damages; prima facie evidence.

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35.471 Armed forces personnel; considered residents under game and fish laws.

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Act 323 of 1939

35.481 Conventions of congressionally chartered veterans' organizations; appropriations by counties or cities.

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Act 79 of 1889

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35.501 Principal and agent relationship; effect of unreported death of principal in armed forces.

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Act 195 of 1943

35.511 Trustee engaged in war service; suspension of powers, appointment of co-trustee or substitute trustee.

35.512 Trustee; restoration of powers.

35.513 Trustee; delivery of property to co-trustee or substitute trustee.

35.514 Trustee; order for appearance, publication and mailing, proof.

35.515 Instances in which trustee deemed in war service.

35.516 Governing law.

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Act 15 of 1946 (1st Ex. Ses.)

35.541 Minor veterans and spouses; contracts, agreements, conveyances or leases of mortgaged property.

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Act 189 of 1945

35.551 Members of armed forces with state professional or occupational license; status unchanged until discharge.

35.552 Act supplemental to existing laws.

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35.582 Intent and interpretation of act.

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Act 9 of 1946 (1st Ex. Ses.)

35.601 Michigan veterans' trust fund; creation; postwar reserve fund, transfer; emergency loan fund; appropriation, disbursement; Vietnam era.

35.601a Veteran's trust fund; transfer of assets; sale.

Reimbursement of trust fund, appropriations.

Appropriations as income.

Nursing facility, grant or loan.

35.602 Veteran; definition; eligibility for trust fund grant; earlier grants validated.

35.602a Korean national emergency period; validation of grants.

35.603 Trust fund board of trustees; members, appointment, terms, compensation and expenses, oaths of office, removal, assistants.

35.604 Board of trustees; powers and duties.

35.605 Trust fund; surplus and earnings, allocation, disbursement, investment; bonds, purchase; custody of fund.

35.606 Veterans' county committees; members, appointment, removal, compensation and expenses, offices; appeals.

35.607 Funds; distribution by auditor general.

35.608 Veterans' committees; regulation by state board of trustees; audit by auditor general.

35.609 Obtaining or giving grant by fraud; penalty.

35.610 Appropriation.

COUNTY DEPARTMENTS OF VETERANS' AFFAIRS

Act 192 of 1953

35.621 County department of veterans' affairs; creation; administrative committee, members, appointment, terms, vacancies.

35.622 Soldiers' relief commission; abolition, transfer of powers and duties to county department of veterans' affairs.

35.623 Administrative committee of county department; selection of officers, expenses; veterans' service officer, appointment; offices.

35.624 County department; powers and duties.

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35.651 Post-war reserve fund; creation, purpose.

35.652 Reserve fund; transfer of funds from general fund.

35.653 Reserve fund; appropriations and disbursements.

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35.661 Veterans' reserve fund; creation, appropriation from general fund.

35.662 Veterans' reserve fund; expenditures, supervision by state administrative board.

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Act 235 of 1911

35.801 Veterans' funeral expenses; reimbursement by county.

35.802 Soldiers' relief commission; investigation of application for reimbursement, compensation.

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35.803 Duties of county clerk; record of application and reimbursement; headstones.
35.804 Veterans' funeral expenses; payment by county.

CEMETERY LOTS FOR CIVIL WAR VETERANS
Act 33 of 1887

35.811, 35.812 Repealed.

CEMETERY LOTS FOR CIVIL WAR VETERANS, DETROIT
Act 45 of 1873

35.822 Repealed.

MARKERS FOR VETERANS' GRAVES
Act 63 of 1915

35.831 Markers for veterans' graves; furnished by municipality.
35.832 Petition regarding unmarked graves; contents.
35.833 Destruction of veterans' grave markers; penalty.

DISINTERMENT OF REMAINS OF WAR VETERANS
Act 248 of 1929

35.841 Disinterment of bodies; jurisdiction of circuit court in chancery.
35.842 Petition for disinterment; contents, filing; order to show cause; hearing, decree; consent of next of kin.
35.843 Order to show cause for disinterment; service by publication to next of kin; court orders.
35.844 Decree authorizing disinterment; provisions, filing of certified copy; burial records, correction.

MONUMENTAL BUILDINGS
Act 130 of 1889

35.851 Veterans' memorials and monumental buildings; joint construction by municipalities.
35.852 Veterans' memorials; municipal building committee, appointment, powers and duties, tenure.
35.853 Veterans' memorials; raising building funds.
35.854 Veterans' memorials; property of municipal corporation, uses; perpetual maintenance fund.

MEMORIALS, TOWNSHIP LANDS
Act 50 of 1921

35.861 Veterans' memorials; acquisition by township of lands therefor; use.
35.862 Tax levy for purchase of lands for veterans' memorial.
35.863 Veterans' memorials on township lands; custody, management and control.
35.864 Referendum on purchase of lands for veterans' memorial; petition, notice; ballot, form and contents; publication of results.

MEMORIALS, CITY LANDS
Act 325 of 1919

35.871 Veterans' memorials; acquisition of lands by city; use.
35.872 Appropriation, tax levy or issuance of bonds for purchase of city lands for veterans' memorial; limitation.
35.873 Veterans' memorials on city lands; custody, management and control.

MILITARY MUSEUM AND OLD BATTLE FLAGS
Act 230 of 1911

35.881 Military museum and battle flags; location.
35.882 Military museum and battle flags; control and management.
35.883 Relics; freight and express charges.

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Act 4 of 1947

35.901 Veterans' bonds; issuance by state administrative board; interest, denominations, maturity, registration, reconversion, cancellation, execution by state treasurer, public sale; temporary bonds; proceeds to constitute veterans' military pay fund; state purchase.
35.901a Veterans' bonds; use of proceeds, provisions applicable.
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Act 12 of 1947

35.921 Veterans' military pay act; short title.
35.922 Veterans' military pay act; definitions.
35.923 Payment to veteran; maximum for domestic and foreign service.
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35.926 Veterans' military pay fund; creation, payment procedure; non-assignability of claims; rejection of claim, notice, appeal; exemptions; expenses of court; review of claims denied prior to act.
35.927 Administration of act; authority of state administrative board; claims.
35.928 Administration of act; expenses, payment; appropriation.
35.929 Application for payment; wilful falsification, penalty.
35.930 Payments deemed gifts.
35.931 Application for payment; filing, time limit, exceptions.
35.932 Aid from Congress; acceptance by state administrative board.

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SPANISH WAR VETERANS

Act 3 of 1899-1900 (Ex. Ses.)

Act 163 of 1917

35.951, 35.961 Repealed.

KOREAN VETERANS' MILITARY PAY FUND ACT OF 1955

Act 8 of 1955

35.971 Korean veterans' military pay fund act of 1955; short title.

35.972 Korean veterans' military pay fund act; definitions.

35.973 Payment to veteran; maximum for domestic and foreign service.

35.974 Payment to beneficiary of deceased veteran; maximum.

35.975 Payment to beneficiary of deceased veteran; death from service connected cause.

35.976 Application for payment by veteran or beneficiary; requirements, endorsement on evidence of service.

35.977 Korean veterans' military pay fund; creation, payment procedure; nonassignability of claims; rejection of claim, notice, appeal.

35.978 Administration of act; authority of state administrative board.

35.979 Administration of act; expenses, payment, appropriation.

35.979a Korean veterans' military pay fund; transfer of balance to general fund.

35.980 Application for payment; wilful falsification, penalty.

35.981 Payments deemed gifts.

35.982 Application for payment; filing, time limit, exceptions.

35.983 Eligibility of World War II veterans.

35.984 Aid from Congress; acceptance by state administrative board.

KOREAN VETERANS' BOND REDEMPTION FUND

Act 71 of 1955

35.991 Korean veterans' bond redemption fund; creation.

35.992 Bond redemption fund; continuing appropriation for payment of principal and interest.

35.993 Bond redemption fund; appropriation for expenses.

35.1-35.7 Repealed. 1949, p. 629, Act 306, Eff. Sep. 23.

Sections created office of veterans' affairs.

Act 77, 1945, p. 78; Imd. Eff. Apr. 11.

AN ACT to provide for local councils of veterans' affairs; and to authorize appropriations by counties, cities, villages and townships.

The People of the State of Michigan enact:

35.11 Local councils of veterans' affairs; appropriations.

Sec. 1. Whenever any local council of veterans' affairs has been or shall be established in any county, city, village or township, or jointly, the legislative body of any such county, city, village or township is hereby authorized to appropriate, from time to time, such sums of money as it may determine, for the operation of any such local council of veterans' affairs.

HISTORY: CL 1948, 35.11;—Am. 1949, p. 100, Act 91, Imd. Eff. May 16.

Act 214, 1899, p. 332; Eff. Sep. 23.

AN ACT to provide relief outside of the soldiers' home for honorably discharged indigent soldiers, sailors, marines, nurses and members of women's auxiliaries and the indigent wives, widows and minor children of such indigent or deceased soldiers, sailors, marines, nurses and members of women's auxiliaries, and to repeal certain acts and parts of acts. Am. 1944, 1st Ex. Ses., p. 34, Act 23, Imd. Eff. Feb. 29.

The People of the State of Michigan enact:

35.21 Veterans' relief fund; county tax, appropriation; disbursement.

Sec. 1. That it shall be the duty of the board of supervisors of the several counties of this state to levy, in the year 1899 and annually thereafter, a tax not exceeding 1/10 of

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a mill on each dollar, to be levied and collected as provided by law, upon the taxable property of each township and city, for their respective counties, for the purpose of creating a fund for the relief of honorably discharged indigent soldiers, sailors, marines, nurses and the members of women's auxiliaries of all wars or military expeditions in which the United States of America has been, is, or may hereafter be, a participant, and the indigent wives, widows, minor children and mothers of each such indigent or deceased soldier, sailor, marine, nurse and members of the women's auxiliaries: Provided, That funds raised in accordance with the provisions of this section may be expended for the relief of indigent wives and children of soldiers, sailors, marines, nurses and members of the women's auxiliaries during the continuance of present hostilities and prior to the discharge of such soldiers, sailors, marines, nurses and members of the women's auxiliaries: Provided, That in any year which, in the opinion of said board, an emergency justifying the same exists, they may appropriate a sum not to exceed 2/10 of a mill on each dollar for said purpose. Such sums when collected, shall be paid to the county treasurer of the county where such tax is levied in each of the counties in this state, to be paid out by him upon the order of the commission hereinafter provided for, duly signed by the chairman and secretary thereof: Provided, That in case any part of such fund shall not be necessary for the purpose for which it was raised, the same shall remain in the treasury of such county as a soldiers' relief fund, and shall be considered in raising future sums therefor.

HISTORY: CL 1915, 1692;—Am. 1919, p. 651, Act 370, Eff. Aug. 14;—CL 1929, 854;—Am. 1931, p. 443, Act 257, Eff. Sept. 18;—Am. 1943, p. 152, Act 114, Eff. July 30;—Am. 1944, 1st Ex. Ses., p. 35, Act 23, Imd. Eff. Feb. 29;—CL 1948, 35.21.

FORMER ACT: Act 193 of 1889, as amended, being CL 1897, 2074-2079.

CITED IN OTHER SECTIONS: Sections 35.21 to 35.27 are cited in § 400.87.

35.22 Soldiers' relief commission; membership, appointment, terms, officers, vacancies, oaths of office, compensation, powers and duties, removal.

Sec. 2. (1) The judge of probate in each county shall appoint 3 persons, residents of such county, who shall be honorably discharged soldiers, sailors, marines, nurses or members of the women's auxiliaries, of the United States army and navy, volunteers or regulars, who served in a war in which the United States has been, is or may hereafter be, a participant, at least 1 of whom shall have served in World War I, to be known as the "soldiers' relief commission" of the county, with the powers and duties in this act provided. If there is no World War I veteran who is willing to serve, a veteran of a war as defined in Act No. 190 of the Public Acts of 1965, as amended, being sections 35.61 and 35.62 of the Compiled Laws of 1948, may be appointed to serve on the soldiers' relief commission.

(2) One of such persons shall be appointed for a term of 1 year; 1 for a term of 2 years; and 1 for a term of 3 years, and at the expiration of the term for which each of such persons was appointed, his successor shall be appointed for a term of 3 years thereafter. The persons so appointed shall organize by the selection of 1 of their number as chairman, and 1 as secretary, and in the event of the death, resignation, change of residence or other disability of any member of the commission, creating a vacancy, the judge of probate shall fill such vacancy by an appointment for the unexpired term. The members shall each file the constitutional oath of office with the probate court, and receive the proper certificate of their appointment. They shall be entitled to reasonable compensation for their services, to be fixed and paid by the board of supervisors of their respective counties. The judge of probate shall have authority to remove any member of such commission for cause.

HISTORY: CL 1915, 1693;—CL 1929, 855;—Am. 1931, p. 443, Act 257, Eff. Sep. 18;—Am. 1943, p. 153, Act 114, Eff. Jul. 30;—Am. 1944, 1st Ex. Ses., p. 35, Act 23, Imd. Eff. Feb. 29;—CL 1948, 35.22;—Am. 1955, p. 337, Act 225, Eff. Oct. 14;—Am. 1969, p. 101, Act 53, Imd. Eff. Jul. 21.

CITED IN OTHER SECTIONS: The above section is cited in § 35.622.

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35.23 Soldiers' relief commission; determination of amounts to be granted and manner of payment; judicial review.

Sec. 3. The supervisor of each township and ward in each of the counties of this state, and where there is no ward supervisor the aldermen of the several wards of every incorporated city in this state, shall, on or before the last Monday in September in each year, make and place in the hands of the soldiers' relief commission of the county, a list of all the persons entitled to relief under the provisions of this act, and the soldiers' relief commission, on the first Monday in October in each year, shall proceed to determine the amount necessary for aid and relief to be granted such persons under this act, which shall be then and there recorded in the books to be kept by the secretary of said soldiers' relief commission. The commission may determine not only the sum to be paid, but the manner of paying the same, and may discontinue the payment of such relief in their discretion. Appeal may be taken therefrom to the circuit court of such county, by certiorari by filing application therefor with the clerk within 15 days following the making of such decision. The court shall hear the case de novo and its decision shall be final.

HISTORY: CL 1915, 1694;—CL 1929, 856;—Am. 1931, p. 444, Act 257, Eff. Sept. 18;—CL 1948, 35.23.

35.24 Emergency relief provision; limitations.

Sec. 4. Whenever any emergency shall arise in case of sickness, accident or death, which, in the opinion of any supervisor or alderman, needs relief, such supervisor or alderman, when inconvenient to consult any of the members of said commission, shall have the power to draw an order on the county treasurer for a sum not to exceed 10 dollars, and shall certify his action and the circumstances of the case to such soldiers' relief commission, which shall ratify the same, and such commission may grant such further relief at any time as it may deem necessary: Provided, however, That no claim for relief shall be allowed and paid which shall create a deficiency in the fund.

HISTORY: CL 1915, 1695;—CL 1929, 857;—CL 1948, 35.24.

35.25 Soldiers' relief commission; annual report, contents.

Sec. 5. Said soldiers' relief commission shall make to the board of supervisors, at its October session in each year, a full report of its doings and the amount of relief money on hand, the amount expended during the year preceding, and the amount estimated for the year ensuing, and such further information and suggestions as they may consider necessary to the discharge of their duties under this act.

HISTORY: CL 1915, 1696;—CL 1929, 858;—CL 1948, 35.25.

35.26 Unexpended funds; transfer to general fund.

Sec. 6. In cases where moneys have heretofore been raised by any city or township under the provisions of the acts hereinafter repealed, the balance of such moneys unexpended on the first day of April, 1900, may, by vote of the common council or township board, be transmitted to, and made a part of the general fund of such city or township, as the case may be.

HISTORY: CL 1915, 1697;—CL 1929, 859;—CL 1948, 35.26.

35.27 Soldiers' relief commission; administration of oaths.

Sec. 7. The several commissioners appointed under this act shall have power to administer oaths in the execution of the duties of their offices.

HISTORY: CL 1915, 1698;—CL 1929, 860;—CL 1948, 35.27.

Sec. 8. (This was a repeal and saving clause section.)

HISTORY: CL 1915, 1699;—CL 1929, 861;—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACT REPEALED: Act 193, 1889, as amended by Act 2, 1893, and Act 253, 1895.

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Act 83, 1867, p. 115; Imd. Eff. Mar. 23.

AN ACT to authorize and require county clerks to record the discharges of members of the armed forces of the United States. Am. 1944, 1st Ex. Ses., p. 10, Act 2, Imd. Eff. Feb. 16.

The People of the State of Michigan enact:

35.31 County record book for discharges from armed forces; provision.

Sec. 1. That the county clerks of the several counties in this state be and are hereby directed to procure, at the expense of the respective counties, suitable books in which to record discharges of members of the armed forces of the United States.

HISTORY: CL 1871, 545;—How. 980;—CL 1897, 1704;—CL 1915, 1074;—CL 1929, 896;—Am. 1944, 1st Ex. Ses., p. 10, Act 2, Imd. Eff. Feb. 16;—CL 1948, 35.31.

35.32 County record book for discharges from armed forces; county clerk, duties, compensation, report.

Sec. 2. It shall be the duty of each county clerk, to enter at large, upon such record book, all soldiers', sailors', marines', nurses' and members of women's auxiliaries' discharges that may be presented to him for record, and to fully index the same, arranging the names of the soldiers, sailors, marines, nurses and members of women's auxiliaries, alphabetically. The several counties, in which the clerk is not on a salary basis, shall compensate the clerk for such service at the rate of not less than 50 cents nor more than $1.00, as directed by the board of supervisors, for each discharge so recorded, and the clerk shall make a sworn statement at the end of every 3 months in each calendar year as to the number of discharges so recorded, and file the same with the county treasurer.

HISTORY: CL 1871, 546;—How. 981;—CL 1897, 1705;—CL 1915, 1075;—Am. 1919, p. 656, Act 374, Imd. Eff. May 13;—CL 1929, 897;—Am. 1944, 1st Ex. Ses., p. 10, Act 2, Imd. Eff. Feb. 16;—CL 1948, 35.32;—Am. 1963, p. 50, Act 49, Eff. Sep. 6.

Secs. 3-4.

HISTORY: CL 1871, 547-8;—How. 982-3;—CL 1897, 1706-7;—CL 1915, 1076-7;—Rep. 1919, p. 656, Act 374, Imd. Eff. May 13.

35.35 County record book for discharges from armed forces; certified copy admissible as evidence.

Sec. 5. Certified copies of such record, under the seal of the circuit court of the county in which such discharge is recorded, shall be received as evidence of the contents of the original discharge, in all cases where such evidence may be required.

HISTORY: CL 1871, 549;—How. 984;—CL 1897, 1708;—CL 1915, 1078;—CL 1929, 898;—CL 1948, 35.35.

Act 243, 1919, p. 432; Eff. Aug. 14.

AN ACT to require the issuance, without fee or charge therefor, of transcripts, under seal, of any records of the offices of secretary of state, adjutant general, judges of probate, county clerks and justices of the peace, pertaining to pensions, insurance payments or annuities, to soldiers, sailors and marines of the several wars of the United States and to their widows or other dependents, either in person or by attorney.

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The People of the State of Michigan enact:

35.41 Veterans; transcripts of certain records issued without fee.

Sec. 1. Upon request, either in person or by attorney, transcripts, under seal, of any records of the offices of secretary of state, adjutant general, judges of probate, county clerks and justices of the peace, pertaining to pensions, insurance payments or annuities, shall, without charge or fee therefor, be issued to soldiers, sailors and marines of the several wars of the United States and to their widows or other dependents.

HISTORY: CL 1929, 899;—CL 1948, 35.41.

CITED IN OTHER SECTIONS: The above section is cited in § 701.17.

Act 161, 1871, p. 246; Eff. Jul. 18.

AN ACT regulating the fees of judges of probate, clerks of courts, justices of the peace and notaries public or other persons authorized to administer oaths in certain cases.

The People of the State of Michigan enact:

35.51 Fees for oaths and certificates to discharged soldier or sailor; maximum.

Sec. 1. That no judge of the probate, clerk of any court, justice of the peace, notary public, or any person authorized to administer oaths under and by the provisions of the laws of this state, shall be allowed to charge any discharged soldier, seaman, or the legal representative of a discharged or deceased soldier or sailor more than 15 cents for administering any oath or giving any official certificate for the procuring or obtaining payment of any pension, bounty or back pay.

HISTORY: CL 1871, 7474;—How. 9049;—CL 1897, 11251;—CL 1915, 14614;—CL 1929, 873;—CL 1948, 35.51.

This and the two following sections were expressly excepted from the repeal of Ch. 311, CL 1897, by Act 14, 1915 (Jud. Act), p. 479, Eff. Jan. 1, 1916.

35.52 Fees for oaths and certificates to widow of deceased soldier or sailor; maximum.

Sec. 2. That no judge of probate, clerk of any court, justice of the peace, notary public, or any person authorized to administer oaths under, and by the provisions of the laws of this state, shall be allowed to charge any widow of a deceased soldier, or guardian to minor children or other legal representative of such deceased soldier or sailor more than 25 cents for the oath or oaths of such widow, guardian or legal representative and their witnesses, nor shall it be lawful for a judge of probate to charge more than 15 cents for a certificate of guardianship, administration or of the death of a pensioner, or the widow, children, or other legal representatives of a pensioner, for the purpose of procuring the payment of any installment of pension.

HISTORY: CL 1871, 7475;—How. 9050;—CL 1897, 11252;—CL 1915, 14615;—CL 1929, 874;—CL 1948, 35.52.

35.53 Violation of act; penalty.

Sec. 3. Any such officer who may ask or accept more than the fees enumerated in sections 1 and 2 of this act for any such service, shall on conviction thereof be adjudged guilty of a misdemeanor.

HISTORY: CL 1871, 7476;—How. 9051;—CL 1897, 11253;—CL 1915, 14616;—CL 1929, 875;—CL 1948, 35.53.

MISDEMEANOR: Punishment, see Compilers' § 750.504.

Act 190, 1965, p. 304; Imd. Eff. Jul. 15.

AN ACT to provide for a system of uniformity of service for veterans.

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The People of the State of Michigan enact:

35.61 Uniformity of service dates; definitions.

Sec. 1. In order to provide for the uniformity of service dates for veterans, the following dates and terms shall be applicable to all acts of the state relative to veterans:

(a) The term "veteran" means a person, including women, who served in the active military forces, during a period of war or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released therefrom under honorable conditions.

The term "veteran" also includes a person who died in active military forces.

(b) The term "Spanish-American war" (1) means the period beginning on April 21, 1898, and ending on July 4, 1902, (2) includes the Philippine insurrection and the Boxer rebellion, and (3) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro province, means the period beginning on April 21, 1898, and ending on July 15, 1903.

(c) The term "World War I" (1) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (2) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

(d) The term "World War II" means the period beginning December 7, 1941 and ending December 31, 1946, both dates inclusive.

(e) The term "Korean conflict" means the period between June 27, 1950 to January 31, 1955.

(f) Civil war and confederate veterans who served between April 12, 1861 and May 26, 1865.

(g) Indian wars. Since the Indian wars were fought intermittently over a period of years, the determination as to whether a person shall be considered as having rendered military service during these wars will be carefully considered by the state veterans' trust fund. January 1, 1817 through December 31, 1898 is considered Indian war period.

(h) Mexican wars. Since there were several skirmishes involving the Mexican border, such as Mexican border troubles 1911-1916; Veracruz expedition April 21, 1914 to November 26, 1914; punitive expedition into Mexico, March 15, 1916 to February 5, 1917; therefore the persons rendering military service in any of these skirmishes shall be considered veterans of the Mexican wars between 1911 and February 5, 1917.

(i) Future dates. The period beginning on the date of any future declaration of war by the congress or the beginning of an emergency condition recognized by the issuance of a presidential proclamation or a presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to presidential executive order and ending on a date prescribed by presidential proclamation or concurrent resolution of the congress.

(j) Veterans of the Korean conflict and veterans having served after January 31, 1955, in an area of hazardous duty for which an armed forces expeditionary or Vietnam service medal was received or veterans having served in the Vietnam era which is defined to be that period beginning August 5, 1964, and ending on a date prescribed by the president or the congress.

HISTORY: New 1965, p. 304, Act 190, Imd. Eff. Jul. 15;—Am. 1966, p. 121, Act 99, Imd. Eff. Jun. 16;—Am. 1967, p. 233, Act 169, Imd. Eff. Jun. 30;—Am. 1968, p. 207, Act 145, Imd. Eff. Jun. 12.

CITED IN OTHER SECTIONS: The above section is cited in §§ 35.22, 35.602, 35.801, and 211.7f.

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35.62 Combination of active duty service days.

Sec. 2. Veterans who served in more than 1 period of war service may combine their active duty days of service to make the 90 days required by veteran benefit statutes or acts.

HISTORY: New 1965, p. 305, Act 190, Imd. Eff. Jul. 15.

CITED IN OTHER SECTIONS: The above section is cited in §§ 35.22, 35.602, and 211.7f.

Act 321, 1937, p. 623; Imd. Eff. Jul. 27.

AN ACT concerning the guardianship of incompetent veterans, orphans of deceased veterans and other incompetent and minor beneficiaries of the veterans administration; to provide penalties for the violation of the provisions of this act; to declare the effect of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

35.71 Definitions.

Sec. 1. Definitions. As used in this act:

The term "person" includes a partnership, corporation or an association.

The term "veterans administration" means the United States veterans administration, its predecessors or successors.

The terms "estate" and "income" shall include only moneys received by the guardian from the veterans administration, all earnings, interest, and profit derived therefrom and all property acquired therewith.

The term "benefits" shall mean all moneys paid or payable by the United States through the veterans administration.

The term "administrator" means the administrator of veterans affairs, or his successor.

The term "ward" means a beneficiary of the veterans administration.

The term "guardian" as used herein shall mean any person acting as a fiduciary for a ward.

HISTORY: CL 1948, 35.71. This act was prepared under the supervision of the National Conference of Commissioners on Uniform State Laws, and recommended by such commissioners for passage by the several states. It has been adopted by the legislatures of the following states: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wyoming.

COMPILERS' NOTE: The catchlines following the act section numbers of this act were incorporated as a part of the act when enacted.

35.72 Guardians; manner of appointment.

Sec. 2. Application. Whenever, pursuant to any law of the United States, or regulation of the veterans administration, it is necessary, prior to payment of benefits that a guardian be appointed for a ward, such appointment shall be made in the manner hereinafter provided.

HISTORY: CL 1948, 35.72.

35.73 Administrator of veterans' affairs; interested party in proceedings for appointment of guardian; notice, hearing; limitation on number of wards.

Sec. 3. Administrator of veterans affairs, party in interest. The administrator of veterans affairs, or his successor, is and shall be a party in interest in any proceedings brought under any law of this state for the appointment of a guardian of a veteran of any war or other beneficiary on whose account benefits of compensation, adjusted compensation, pension or insurance or other benefits are payable by the veterans administration, and the said administrator or his successor is and shall be an interested

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party in the administration of the estate of any such ward on whose account such benefits are payable or whose estate includes assets derived from benefits paid by the veterans administration, its predecessor or successor, and written notice shall be given by (registered) mail unless waived in writing to the office of the veterans administration having jurisdiction over the area in which the court is located, of the time and place for hearing on any petition or pleading or in connection with any proceeding pertaining to or affecting in any manner the administration of the estate of any beneficiary of the veterans administration. Said notice shall be deposited in the mails not less than 14 days or such other period as the court may order prior to the date of such hearings or other proceedings: Provided, That in case of any proceeding or hearing notice of which is not required by the statutes in such case made and provided to be given to the interested parties thereto, either by personal service, mailing or advertisement, notice thereof need not be given to said office of the veterans administration.

Limitation on number of wards. Except as hereinafter provided, it shall be unlawful for any person to accept appointment as guardian of any ward if such proposed guardian shall at that time be acting as guardian for 10 wards. In any case, upon presentation of a petition by an attorney of the veterans administration under this section alleging that a guardian is acting in a fiduciary capacity for more than 10 wards and requesting his discharge for that reason, the court, if it determines that such guardian is acting in a fiduciary capacity for more than 10 wards, shall require a final accounting forthwith from such guardian and shall discharge such guardian in said case.

The limitations of this section shall not apply where the guardian is a bank or trust company. An individual may be guardian of more than 10 wards if they are all members of the same immediate family. For the purposes of this section, such appointments in the same immediate family shall be counted as 1 appointment only.

HISTORY: CL 1948, 35.73.

35.74 Guardians; petition for appointment, filing, content.

Sec. 4. Appointment of guardians. A petition for the appointment of a guardian may be filed in the probate court by or on behalf of any person who under existing law is entitled to priority of appointment. If there be no person so entitled or if the person so entitled shall neglect or refuse to file such a petition within 30 days after mailing of notice by the veterans administration to the last known address of such person indicating the necessity for the same, a petition for such appointment may be filed in any court of competent jurisdiction by or on behalf of any responsible person residing in this state.

The petition for appointment shall set forth the name, age, place of residence of the ward, the name and place of residence of the nearest relative, if known, and the fact that such ward is entitled to receive benefits payable by or through the veterans administration and shall set forth the amount of moneys then due and the amount of probable future payments.

The petition shall also set forth the name and address of the person or institution, if any, having actual custody of the ward and the name, age, relationship, if any, occupation and address of the person proposed for appointment as guardian. Notwithstanding any law as to priority, the court may appoint a capable individual, bank or trust company as guardian, if the person entitled to priority fails to apply, or if after hearing the court determines it is to the best interest of the ward to appoint another.

HISTORY: CL 1948, 35.74.

35.75 Guardian for minor; prima facie evidence of necessity.

Sec. 5. Prima facie evidence of necessity for guardian—infant.

Where a petition is filed for the appointment of a guardian of a minor ward, a certificate of the administrator, or his authorized representative, setting forth the age of

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such minor as shown by the records of the veterans administration and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the veterans administration shall be prima facie evidence of the necessity for such appointment.

HISTORY: CL 1948, 35.75.

35.76 Guardian for incompetent; prima facie evidence of necessity.

Sec. 6. Prima facie evidence of necessity for guardian—incompetent.

Where a petition is filed for the appointment of a guardian of a mentally incompetent ward a certificate of the administrator, or his duly authorized representative, setting forth the fact that such person has been rated incompetent by the veterans administration on examination in accordance with the laws and regulations governing such veterans administration; and that the appointment of a guardian is a condition precedent to the payment of any moneys due such person by the veterans administration, shall be prima facie evidence of the necessity for such appointment.

HISTORY: CL 1948, 35.76.

35.77 Guardians; notice of filing petition for appointment.

Sec. 7. Notice. Upon the filing of a petition for the appointment of a guardian, under the provisions of this act, the court shall cause such notice to be given as is provided by law. If demanded, jury trial shall not be denied.

HISTORY: CL 1948, 35.77.

35.78 Guardians; bonds, execution and filing; corporate guardians, exemption; sureties.

Sec. 8. Before making an appointment under the provisions of this act the court shall be satisfied that the person whose appointment is sought is a fit and proper person to be appointed. Upon the appointment being made, the guardian shall execute and file a bond to be approved by the court in an amount not less than the sum then due and estimated to become payable during the ensuing year. The said bond shall be in the form and be conditioned as required of guardians appointed under the general guardianship laws of this state. The court shall have power from time to time to require the guardian to file an additional bond: Provided, however, That if the person appointed as guardian under the provisions of this act is a trust company organized under the laws of the state of Michigan, or a bank with trust powers organized under the laws of the United States or of the state of Michigan, no bond shall be required except that the court in any case may require a bond from any such guardian if, under the circumstances in a particular case, it feels that such a bond is necessary for the protection of the estate of the ward: And provided further, That in any case where a trust company organized under the laws of the state of Michigan, or a bank with trust powers organized under the laws of the United States or of the state of Michigan, shall heretofore have been appointed guardian under the provisions of this act and shall have furnished bond as such guardian, the court shall have power to cancel such bond and to release and discharge the surety or sureties thereon, upon the written petition of such surety or his principal and after the principal named in said bond has filed an account of all his actions and administration from the date of his last account up to the date of the hearing, if the court, after due notice to all persons interested deems it reasonable and proper.

Where a bond is tendered by a guardian with personal sureties, there shall be at least 2 such sureties and they shall file with the court a certificate under oath which shall describe the property owned, both real and personal, and shall state that they are each worth the sum named in the bond as the penalty thereof over and above all their debts and liabilities and exclusive of property exempt from execution. Notwithstand-

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ing such tender, the court may require additional security for or may require a corporate surety bond, the premium thereon to be paid from ward's estate.

HISTORY: Am. 1945, p. 529, Act 308, Imd. Eff. May 25;—Am. 1947, p. 378, Act 245, Eff. Oct. 11;—CL 1948, 35.78.

35.79 Guardians; annual accounting; filing, notice, hearing.

Sec. 9. Accounting. Every guardian, who shall receive on account of his ward any moneys from the veterans administration shall file with the court annually on the anniversary date of the appointment, in addition to such other accounts as may be required by the court, a full, true, and accurate account under oath of all moneys so received by him, of all disbursements thereof, and showing the balance thereof in his hands at the date of such account and how invested. At the time of the filing in the court of any account, a certified copy thereof shall be by the guardian served by mail on the office of the veterans administration having jurisdiction over the area in which such court is located. A correct copy of any petition or other pleading pertaining to such account or affecting in any manner the ward or his estate shall similarly be so served. The court, unless hearing be waived in writing by the chief attorney of the veterans administration, shall fix a time and place for the hearing on such account, petition, or other pleading, not less than 14 days, nor more than 30 days from the date of said service, unless a different available date be stipulated in writing. Written notice of the time and place of such hearing shall be given the veterans administration office concerned, and the guardian, not less than 14 days before the date of hearing, and may be given by mail.

When such notice shall have been given as provided herein, any order entered in respect to such account, petition, or other pleading shall have the same effect as if entered after notice by publication as provided in the statutes of the state of Michigan in such case made and provided, and in such case notice by publication shall not be made, unless on order of the court for good cause shown. Upon an attorney for said veterans administration entering his appearance or filing waiver with respect to any such hearing, no guardian ad litem shall be appointed except upon motion by any interested party and for good cause shown.

Upon rendering any such account the guardian shall produce for examination by the court, or a duly authorized clerk or other appointee thereof, all securities, evidence of balance on deposit, and investments reported therein, which shall be described in such account in sufficient detail so that they may be identified, and the court or its duly authorized clerk or other appointee shall ascertain whether such securities, balance on deposit, and investments correspond with such account, and if so shall certify to that effect upon the account filed with the court and upon the copy or certificate supplied the veterans administration.

The clerk shall mail said veterans administration office a copy of each order entered in any guardianship proceeding wherein the veterans administration is an interested party.

HISTORY: Am. 1939, p. 374, Act 197, Imd. Eff. June 8;—CL 1948, 35.79.

35.80 Guardians; failure to file account, penalty.

Sec. 10. Penalty for failure to account.

If any guardian shall fail to file, with the court or the veterans administration as required by this act, any account of the benefits received by him from the veterans administration on account of his ward within 30 days after such account is due, or shall fail to furnish the veterans administration a true copy of any account or of any petition as required by this act, such failure shall be ground for removal.

HISTORY: CL 1948, 35.80.

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35.81 Guardians; compensation; notice and hearing.

Sec. 11. Compensation payable to guardians shall not exceed 5% of the income of the ward during any year. If such compensation appears inadequate, the court may upon petition and after notice to the veterans administration and hearing thereon, authorize such other or additional compensation payable from the estate of the ward as shall be deemed just and reasonable. Notice of such petition and hearing shall be given the proper office of the veterans administration in the manner provided in section 9 of this act.

HISTORY: CL 1948, 35.81;—Am. 1962, p. 89, Act 102, Eff. Mar. 28, 1963.

35.82 Guardians; investments permitted with prior approval of court.

Sec. 12. Investments. It shall be the duty of guardians to invest and keep invested their wards' surplus money and only in the securities hereinafter indicated, and in which the guardian has no interest. Such investments, except those provided in paragraph "a" hereof, shall be made only upon the prior approval of the court.

(a) Direct obligations of this state and of the United States government, and obligations, the interest and principal of which are both unconditionally guaranteed by the United States government.

(b) The bonds which are the general obligations of any other state, or of any county, city or town in the United States with a population as shown by next preceding federal census of not less than 10,000 inhabitants, and which bonds were not issued in aid of railroads, and where the laws do not permit such counties, cities or towns to become indebted in excess of 5 per cent of the assessed valuation of property for taxation therein, and where the total indebtedness of such county, city or municipality, does not exceed 5 per cent of the assessed valuation of property for taxation at the time of such investment: Provided always, There has been no default for more than 30 days during the preceding 10 years upon any bonds of the issuing state, county, city or town.

(c) The legally issued notes of the owner of improved unencumbered real property located in this state secured by first mortgage or deed of trust thereon: Provided, That the total debt secured by such encumbrance does not exceed 50 per cent of the actual cash value of such real property at the time of such investment, and provided that if buildings or other improvements constitute a material part of the value of such premises encumbered to secure such indebtedness they shall be kept insured against loss or damage by fire or wind in a reasonable amount for the benefit of the owners of such notes secured by first mortgages or deeds of trust.

Before making any such investment a signed application therefor shall be procured from the borrower which shall contain such information as may be required by the lender and in every case shall contain a complete description of the real estate, including improvements thereon, and an affirmative statement that such proposed borrower is the owner of the entire fee simple title to such real estate and improvements, that same are free of every encumbrance or lien of any character, or if not, a statement of any existing encumbrance or other liens thereon, and specific authorization to the lender to withhold from the proposed loan the necessary sum to discharge and procure the release of any such encumbrances or other liens, and such release shall in all cases be procured and filed for record prior to or contemporaneously with the making of such loan. The proposed borrower shall also furnish with such application an abstract or certificate of title and same shall be completed to the time of closing the loan. The guardian proposing to make such loan or to purchase any notes secured by first mortgage or deed of trust shall exhibit to the court with his application for approval thereof the opinion of a qualified attorney at law satisfactory to the court, which opinion shall show that such attorney has examined said abstract of title or certificate of title and

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the papers evidencing the proposed debt and encumbrance to secure same, and based thereon it is the opinion of such attorney that the proposed borrower has good title to the property to be encumbered and that such proposed encumbrance will constitute a valid first lien thereon. In addition thereto the guardian shall file with the court satisfactory written evidence that the reasonable cash value of the property to be encumbered is in accordance with the requirements of this paragraph.

If the guardian purchases previously issued notes secured by first mortgage or deed of trust, the attorney's examination and opinion shall also disclose whether the proposed transferor has and will pass to the guardian good title thereto together with the liens securing same as hereinbefore provided. In such case the guardian shall file with the court satisfactory written evidence of value of the encumbered property as is hereinabove required, as of the time of acquiring such notes.

(d) The legally issued first and refunding mortgage bonds of any railroad or railway corporation organized under the laws of the United States or of any state thereof, as provided in paragraphs (d), (e) and (f), of section 24 of Act No. 66 of the Public Acts of 1929, as amended, and subject to all of the provisions, conditions and limitations therein prescribed: And provided further, That at no time shall the amount invested in such bonds exceed 10 per cent of the total amount of such wards' investments.

(e) The legally authorized mortgage bonds issued or assumed by any corporation incorporated under the laws of the United States or of any state thereof, and transacting the business of supplying electrical energy or gas or both for light, heat, power and other purposes, provided such corporation is subject to regulation by a public service commission or public utilities commission or other similar regulatory body duly established by the laws of the United States or the state in which such corporation operates: Provided, however, That such investment shall be subject to all the provisions, conditions and limitations prescribed in paragraph (h) of section 24 of said Act No. 66: And provided further, That at no time shall the amount invested in such bonds exceed 10 per cent of the total amount of such wards' investments.

(f) Bonds of any corporation which at the time of such investment is incorporated under the laws of the United States or of any state thereof and is authorized to engage and is actually engaged in the business of furnishing telephone and telegraph service in the United States and is subject to regulation by the interstate commerce commission or a public service commission or other similar federal or state regulatory body duly established by the laws of the United States or of the states in which such corporation operates: Provided, however, That such investment shall be subject to all the provisions, conditions and limitations prescribed in paragraph (i) of section 24 of said Act No. 66: And provided further, That at no time shall the amount invested in such bonds exceed 10 per cent of the total amount of such wards' investments.

(g) The legally authorized and issued first mortgage bonds of steamship companies: Provided, That such mortgages shall be upon steel steamship or steamships for the carriage upon the great lakes and connecting waters of package freight and passengers combined of at least 5,000 tons carrying capacity each, and upon bulk freighters of at least 7,000 tons carrying capacity each: Provided, That such bonds are issued at the time of completion and enrollment of such steamship or steamships, or within 1 year thereafter: Provided, however, That such investment shall be subject to all the provisions, conditions and limitations prescribed in paragraph (j) of section 24 of said Act No. 66: And provided further, That at no time shall the amount invested in such bonds exceed 10 per cent of the total amount of such wards' investments.

(h) The withdrawable shares of a building and loan association or savings and loan association incorporated under the laws of this state, or in the shares of a federal savings and loan association situated in this state, organized and existing by virtue of sec-

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tion 5 of an act of congress known as the Home Owners' Loan Act of 1933, as amended.

HISTORY: Am. 1939, p. 184, Act 102, Eff. Sept. 29;—CL 1948, 35.82.

NOTE: Act 66, 1929, above referred to, was repealed by Act 341, 1937. For investment of trust funds held by fiduciaries, see Compilers' §§ 555.201-555.203.

Sec. 5 of an act of Congress known as the Home Owners' Loan Act of 1933, above referred to, is 12 U.S.C.A. 1464.

35.82i Corporate guardians; common trust fund investments permitted.

Sec. 12i. Any trust company or bank with trust powers acting as a guardian pursuant to this act and organized under the laws of this state or of the United States may invest in a common trust fund, containing only investments authorized for fiduciaries, established and maintained by the corporate fiduciary in conformity with the laws of this state or of the United States.

HISTORY: Add. 1969, p. 122, Act 64, Imd. Eff. Jul. 21.

35.83 Maintenance and support of ward.

Sec. 13. Maintenance and support. A guardian shall not apply any portion of the estate of his ward for the support and maintenance of any person other than said ward, his minor children and his wife (if she and the ward be living together) except upon petition to and order of the court after a hearing, notice of which has been given the proper office of the veterans administration in the manner and within the time provided in section 9 of this act.

HISTORY: CL 1948, 35.83.

35.84 Purchase of home for ward.

Sec. 14. Purchase of home for ward. The court may authorize the purchase of the entire fee simple title to real estate in this state in which the guardian has no interest, but only as a home for the ward, or to protect his interest, or, if he is not a minor, as a home for his dependent family. Such purchase of real estate shall not be made except upon the entry of an order of the court after hearing upon verified petition. Notice of such hearing shall be given the veterans administration in the manner and within the time provided by section 9 of this act.

Before authorizing such investment the court shall require evidence of value and title as is hereinabove provided, and of the advisability of acquiring such real estate. Title shall be taken in the ward's name. This section shall not be construed to limit the right of the guardian on behalf of his ward to bid and to become the purchaser of real estate at a sale thereof pursuant to decree of foreclosure of a lien held by or for the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold, or at a sale under partition decree, if necessary to protect the ward's interest in such property.

HISTORY: CL 1948, 35.84.

35.85 Guardian; discharge, release of sureties.

Sec. 15. Discharge of guardian and release of sureties. When a minor ward for whom a guardian has been appointed under the provisions of this act or other laws of this state shall have attained his or her majority, and if incompetent shall be declared competent by the court, and when any incompetent ward, not a minor, shall be declared competent by the court, the guardian shall file a final account. Upon hearing, following notice to the former minor or incompetent and to the veterans administration in the manner and within the time provided by section 9, and upon approval of the final account the court may so adjudge, and discharge the guardian and release the sureties from liability upon delivery to the former ward of the assets due him by the former guardian, and may make such further order as may be lawful.

HISTORY: CL 1948, 35.85.

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35.85a Successor corporate guardians; appointment, conditions and procedure.

Sec. 15a. (1) Any trust company or bank with trust powers, organized under the laws of this state or organized under the laws of the United States, hereinafter in this section referred to as a corporate guardian or fiduciary, with approval of the probate court having jurisdiction, may resign its trust as guardian under this act in accordance with the provisions of this act and the general probate laws of this state. Where the corporate fiduciary has resigned, subject to the provisions of this act, for the purpose of expediting and facilitating the appointment and qualification as successor fiduciary of another corporate guardian, the laws of this state relating to notice of hearing on the appointment of a successor guardian shall not be applicable.

(2) It shall be sufficient for the resignation and discharge of a guardian and the contemporaneous appointment as successor corporate guardian if the following requirements are met:

(a) The filing of a petition by a corporate guardian, praying that its resignation be accepted, that it be discharged, its bond or other undertaking cancelled and the surety thereon released upon the filing of its final account, the allowance thereof, and the transfer of the assets to the corporate successor guardian to be appointed under the provisions of this section.

(b) The appointment of a qualified successor corporate guardian at a hearing on the petition of the resigning guardian with notice only to the veterans' administration as provided in section 3 of this act, or appointment ex parte of the corporate successor guardian upon the filing of a written waiver of notice of hearing thereon by the veterans' administration. The resignation of the former guardian and petition for the appointment of a corporate successor guardian may be combined in 1 instrument to be signed by the former guardian.

(c) The filing of an acceptance of trust or bond by the successor corporate guardian as may be directed by the court.

(d) Upon the allowance of its final account and filing of a receipt for the assets as provided by law, the former guardian may be discharged, its bond or other undertaking cancelled and the surety thereon released.

HISTORY: Add. 1958, p. 111, Act 103, Imd. Eff. Apr. 14.

35.86 Insane veteran; commitment, procedure.

Sec. 16. Commitment of insane veteran. Whenever it appears that any veteran is eligible for treatment in a United States veterans' facility and commitment is necessary for the proper care and treatment of such veteran, the court of the county in which the veteran is found, may, upon receipt of a certificate of eligibility from the veterans administration, and if the veteran be adjudged insane in accordance with law, direct such veteran's commitment to the veterans administration for hospitalization in a United States veterans' facility. Thereafter such veteran upon admission to any such facility shall be subject to the rules and regulations of the veterans administration and the chief officer of such facility shall be vested with the same powers exercised by superintendents of state hospitals for mental diseases within this state with reference to the retention, transfer or parole of the veteran so committed. Notice of such pending commitment proceedings shall be furnished the person to be committed and his right to appear and defend shall not be denied. The commitment of a veteran to a veterans' facility within this state by a court of another state under a similar provision of law, shall have the same force and effect as if such commitment were made by a court of this state.

HISTORY: CL 1948, 35.86.

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35.86a Veteran of unsound mind or otherwise in need of confinement; commitment, procedure; transfer.

Sec. 16a. Commitment to veterans administration or other agency of United States government.

(1) Whenever, in any proceeding under the laws of this state for the commitment of a person alleged to be of unsound mind or otherwise in need of confinement in a hospital or other institution for his proper care, it is determined after such adjudication of the status of such person as may be required by law that commitment to a hospital for mental disease or other institution is necessary for safekeeping or treatment and it appears that such person is eligible for care or treatment by the veterans administration or other agency of the United States government, the court, upon receipt of a certificate from the veterans administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to said veterans administration or other agency. The person whose commitment is sought shall be personally served with notice of the pending commitment proceeding in the manner as provided by the law of this state; and nothing in this act shall affect his right to appear and be heard in the proceedings. Upon commitment, such person, when admitted to any facility operated by any such agency within or without this state, shall be subject to the rules and regulations of the veterans administration or other agency. The chief officer of any facility of the veterans administration or institution operated by any other agency of the United States to which the person is so committed shall with respect to such person be vested with the same powers as superintendents of state hospitals for mental diseases within this state with respect to retention of custody, transfer, parole or discharge. Jurisdiction is retained in the committing or other appropriate court of this state at any time to inquire into the mental condition of the person so committed, and to determine the necessity for continuance of his restraint, and all commitments pursuant to this act are so conditioned.

(2) The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia, committing a person to the veterans administration, or other agency of the United States government for care or treatment shall have the same force and effect as to the committed person while in this state as in the jurisdiction in which is situated the court entering the judgment or making the order; and the courts of the committing state, or of the District of Columbia, shall be deemed to have retained jurisdiction of the person so committed for the purpose of inquiring into the mental condition of such person, and of determining the necessity for continuance of his restraint, as is provided in subsection (1) of this section with respect to persons committed by the courts of this state. Consent is hereby given to the application of the law of the committing state or district in respect to the authority of the chief officer of any facility of the veterans administration, or of any institution operated in this state by any other agency of the United States to retain custody, or transfer, parole or discharge the committed person.

(3) Upon receipt of a certificate of the veterans administration or such other agency of the United States that facilities are available for the care or treatment of any person heretofore committed to any hospital for the insane or other institution for the care or treatment of persons similarly afflicted and that such person is eligible for care or treatment, the superintendent of the institution may cause the transfer of such person to the veterans administration or other agency of the United States for care or treatment. Upon effecting any such transfer, the committing court or proper officer thereof shall be notified by the transferring agency. No person shall be transferred to the veterans administration or other agency of the United States if he be confined upon conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of insanity, unless prior to transfer the court or other authority origi-

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nally committing such person shall enter an order for such transfer after appropriate motion and hearing.

Any person transferred as provided in this section shall be deemed to be committed to the veterans administration or other agency of the United States pursuant to the original commitment.

HISTORY: Add. 1944, 1st Ex. Ses., p. 71, Act 37, Imd. Eff. Mar. 3;—CL 1948, 35.86a.

35.87 Construction of act.

Sec. 17. Liberal construction. This act shall be construed liberally to secure the beneficial intents and purposes thereof and shall apply only to beneficiaries of the veterans administration.

HISTORY: CL 1948, 35.87.

35.88 Uniform veterans' guardianship act; short title.

Sec. 18. Citation of act. This act may be cited as the "Uniform Veterans' Guardianship Act."

HISTORY: CL 1948, 35.88.

Sec. 19. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

35.90 Modification and repeals of prior law.

Sec. 20. Modification of prior laws. All laws or parts of laws relating to beneficiaries of the veterans administration inconsistent with this act are hereby repealed. Act No. 156 of the Public Acts of 1929, as amended, being sections 810, 811, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828 and 829 of the Compiled Laws of 1929, is hereby repealed. Except where inconsistent with this act, the general guardianship laws of this state, and the laws establishing the practice in such matters, including rights of appeal, shall be applicable to such beneficiaries and their estates.

HISTORY: CL 1948, 35.90.

NOTE: For law governing guardian and ward, see Compilers' § 703.1 et seq.

35.91 Application of act as to surety bonds, administration of estates, and investments; liability of guardian, liquidation of investments.

Sec. 21. Application of act. The provisions of this act relating to surety bonds and the administration of estates of administration beneficiaries under guardianship shall apply to all such estates heretofore or hereafter created under the general laws of this state to the extent that such estates have assets derived from the benefits paid directly by the veterans administration or receive such benefits in the future.

The provisions of this act relative to investments shall govern all investments made after the enactment hereof: Provided, however, That the guardian shall be liable for any loss resulting from his failure to use reasonable diligence and care with respect to liquidating investments of the ward, lawful when made, but not permissible under the provisions of this act: And provided further, That all such investments shall be liquidated within 5 years from the effective date of this act unless the time for such liquidation in any case shall be extended by the court of appointment upon petition therefor and evidence in support thereof, in which latter event such liquidation shall occur within the period fixed by such order of extension.

HISTORY: CL 1948, 35.91.

Act 245, 1935, p. 416; Eff. Sep. 21.

AN ACT to provide educational opportunities for the children of certain soldiers, sailors, marines and nurses. Am. 1937, p. 115, Act 84, Imd. Eff. Jun. 15.:-Am. 1943, p. 34, Act 38, Eff. Jul. 30.

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The People of the State of Michigan enact:

35.111 Children of deceased or disabled veterans; educational aid.

Sec. 1. Any person not under 16 and not over 22 years of age who has been a resident of the state of Michigan for 12 months, who is a child of a member of the armed forces of the United States who was killed in action or died from other cause during any war or war condition in which the United States has been, is, or may hereafter be a participant, or who as a result of wartime service has since died or is totally disabled, shall be admitted to and may attend any state tax supported educational or training institution of a secondary or college grade. Such persons admitted to tax supported institutions shall not be required to pay any matriculation fee, athletic fee, tuition or any other fee which takes the place of tuition charges during the time in which he is a student at said state institution.

HISTORY: Am. 1937, p. 115, Act 84, Imd. Eff. Jun. 15;—Am. 1943, p. 34, Act 38, Eff. Jul. 30;—CL 1948, 35.111;—Am. 1963, p. 181, Act 128, Imd. Eff. May 10;—Am. 1965, p. 731, Act 371, Eff. Mar. 31, 1966.

35.112 Michigan veterans' trust fund board of trustees; determination of eligibility for educational aid, rules and regulations, appropriations.

Sec. 2. The Michigan veterans' trust fund board of trustees shall determine the eligibility of any person who may make application for the benefits provided in section 1 of this act and shall satisfy itself of the attendance of such person at any such institution and of the accuracy of the charge or charges submitted to said board by the authorities of such institution on account of the attendance thereat of such person. No member of the board or the secretary shall receive any compensation for such services. Such authority shall also make such rules and regulations as to provide uniform consideration of persons who are eligible for the benefits of this act. The appropriations that have been provided to the institutions or state board of education for this purpose shall be made to the Michigan veterans' trust fund board of trustees.

HISTORY: CL 1948, 35.112;—Am. 1963, p. 181, Act 128, Imd. Eff. May 10;—Am. 1965, p. 731, Act 371, Eff. Mar. 31, 1966.

35.121-35.126 Repealed. 1966, p. 63, Act 39, Eff. Mar. 10, 1967.

Sections authorized certain schools to establish veterans' institutes.

35.131-35.133 Repealed. 1962, p. 67, Act 81, Eff. Mar. 28, 1963.

Sections related to appropriation of funds for assistance to school districts for veterans' education.

35.181-35.183. Expired June 30, 1966.

Sections (Secs. 1-3, Act 199, 1959, p. 283, March 19, 1960) created the Civil War Centennial Commission and prescribed its powers and duties. Activities of commission terminated on June 30, 1966 by the terms of the act.

35.191, 35.192 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for publication of alphabetical index of record of Michigan soldiers and sailors in war of the rebellion.

35.201, 35.202 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for enrollment of certain persons as enlisted from Michigan.

35.211-35.218 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for incorporation of the Grand Army of the Republic.

Act 15, 1889, p. 14; Imd. Eff. Mar. 8.

AN ACT to incorporate the Woman's Relief Corps auxiliary to the Grand Army of the Republic, department of Michigan, and subordinate corps of the Woman's Relief Corps auxiliary to posts of the Grand Army of the Republic.

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The People of the State of Michigan enact:

35.221 Women's Relief Corps auxiliary to Grand Army of the Republic; incorporation.

Sec. 1. That the Woman's Relief Corps auxiliary to the Grand Army of the Republic, department of Michigan, and subordinate corps of the Woman's Relief Corps auxiliary to posts of the Grand Army of the Republic of the department of Michigan, may be incorporated in pursuance to the provisions of this act.

HISTORY: How. 4859r;—CL 1897, 7768;—CL 1915, 10199;—CL 1929, 10486;—CL 1948, 35.221.

35.222 Women's Relief Corps; articles of association; execution, contents.

Sec. 2. The president, senior vice-president, junior vice-president, secretary and treasurer of the department of Michigan Woman's Relief Corps auxiliary to the Grand Army of the Republic may make and execute articles of association under their hands and seals, which articles of association shall be acknowledged before some officer authorized by law to take acknowledgment of deeds and shall set forth:

First, The names of the officers above mentioned and their places of residence;

Second, The corporate name by which the association shall be known in law;

Third, The object and purposes of such association, which shall be to promote the general welfare of the order known as the Woman's Relief Corps and the period for which it is incorporated, which shall not exceed 30 years.

HISTORY: How. 4859s;—CL 1897, 7769;—CL 1915, 10200;—CL 1929, 10487;—CL 1948, 35.222.

35.223 Articles of association; filing; body corporate, powers and property limitations.

Sec. 3. A copy of said articles of association, together with a copy of the rules and regulations of the Woman's Relief Corps auxiliary of the Grand Army of the Republic, shall be filed with and recorded in the office of the secretary of state, and thereupon the persons who shall have signed such articles of association, their associates and successors, shall be a body politic and corporate by the name expressed in such articles of association, and by that name they and their successors shall have succession, and shall be persons in law capable to purchase, take, receive, hold and enjoy to them and their successors, estates, real and personal, of suing and being sued, and to have a common seal which may be altered or changed at pleasure: Provided, That the value of real and personal estate shall not exceed the value of 10,000 dollars, and that they and their successors shall have power to give, grant, sell, lease, demise, and dispose of real and personal estate or part thereof at their will and pleasure, and the proceeds, rents and incomes to be disposed of as directed by the department at its annual meeting. Said corporation shall have full power to make and establish rules and by-laws for regulating and governing all the affairs and business of said corporation not repugnant to the constitution and laws of this state, or the United States, and to designate, elect or appoint from its members such officers under such name and style as shall be in accordance with the rules and regulations of the Woman's Relief Corps auxiliary to the Grand Army of the Republic.

HISTORY: How. 4859t;—CL 1897, 7770;—CL 1915, 10201;—CL 1929, 10488;—CL 1948, 35.223.

EXEMPTION FROM TAXATION: Personal property of W.R.C., see Compilers' § 211.9 subd. 3.

35.224 Articles of association; certified copy as evidence.

Sec. 4. A copy of the record of such articles of association, under the seal of the state, duly certified by the secretary of state, shall be received as prima facie evidence in all courts of this state of the existence and due organization of such corporation.

HISTORY: How. 4859u;—CL 1897, 7771;—CL 1915, 10202;—CL 1929, 10489;—CL 1948, 35.224.

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35.225 Subordinate corps; chartering, government.

Sec. 5. Such corporation when duly formed shall have power to institute and charter corps auxiliary to the Grand Army of the Republic within this state, and from time to time issue such orders for the government of corps as are not repugnant to the rules and regulations of the national convention of the Woman's Relief Corps of the United States.

HISTORY: How. 4859v;—CL 1897, 7772;—CL 1915, 10203;—CL 1929, 10490;—CL 1948, 35.225.

35.226 Subordinate corps; incorporation; body corporate, powers and duties; certified copy of articles of association as evidence.

Sec. 6. At any time when a subordinate corps, auxiliary to a post of the Grand Army of the Republic, shall by a 2/3 vote of the members present at any regular meeting of said corps, resolve to become incorporated, the president, senior vice-president, junior vice-president, and secretary of such corps may make and execute articles of association under their hands and seals, specifying as provided in section 2 of this act, and file a copy of the resolutions passed at a regular meeting of the corps, with the clerk of the county in which such corporation shall be formed, which shall be recorded by such clerk in a book to be kept in his office for that purpose, and thereupon such corps, auxiliary to a post of the Grand Army of the Republic, the officers thereof, their associates and successors shall be a body politic and corporate, by the name expressed in such articles of association and by that name they and their successors shall have successions and shall be persons in law with the same powers, duties and liabilities as the Woman's Relief Corps department of Michigan have under section 3 of this act, to which they are subordinate: Provided, That a certified copy of the record of such articles of association, under the seal of the circuit court of the county where such record is recorded, shall be received as prima facie evidence in all the courts of this state, of the existence and due organization of such corporation.

HISTORY: How. 4859w;—CL 1897, 7773;—CL 1915, 10204;—CL 1929, 10491;—CL 1948, 35.226.

35.227 Governing law.

Sec. 7. All corporations formed under this act shall be subject to the provisions of chapter 191 of Howell's annotated statutes, so far as the same may be applicable to corporations formed under this act.

HISTORY: How. 4859x;—CL 1897, 7774;—CL 1915, 10205;—CL 1929, 10492;—CL 1948, 35.227.

NOTE: Ch. 191 of How. above referred to, included the following provisions which have not been repealed or reenacted: Compilers' §§ 450.504 to 450.525 and 450.631 to 450.651.

Act 8, 1897, p. 11; Imd. Eff. Feb. 11.

AN ACT to provide permanent headquarters in the capitol building as the Michigan veterans' headquarters, to designate the purpose for which the same shall be used, and to provide for an annual report by the commander. Am. 1947, p. 313, Act 213, Eff. Oct. 11.

The People of the State of Michigan enact:

35.231 Michigan veterans' headquarters; custodian, appointment; records, access; Grand Army of the Republic commemoration plaque.

Sec. 1. The board of state auditors shall set apart a suitable furnished room in the capitol at Lansing, as the Michigan veterans' headquarters to be located in the present headquarters room of the Grand Army of the Republic, department of Michigan. Said room shall be given like care and attention as is given to other office rooms in the capitol. The room shall be under the charge of a custodian, who shall be a veteran of World War I or World War II, appointed by the governor, on the recommendation of

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the several veterans organizations composed of veterans of World War I or World War II, or both, and said room shall be used for the purpose of storing supplies and property, arranging and keeping the records and history of veterans of World War I or World War II, and conducting the general office business. The records shall be accessible under suitable rules and regulations established by the custodian, to persons engaged in collecting historical information.

There shall be placed by the superintendent of the capitol either within or in the vicinity of the veterans' headquarters a suitable plaque commemorating the room in the name of the Grand Army of the Republic, to which shall be attached the pictures of all the past commanders of the Grand Army of the Republic, the charter of the Grand Army of the Republic, and the picture of R. A. Alger.

HISTORY: CL 1897, 1687;—CL 1915, 1036;—CL 1929, 889;—Am. 1947, p. 313, Act 213, Eff. Oct. 11;—CL 1948, 35.231.

COMPILERS' NOTE: Section 2 of amendatory Act 213 of 1947 provides as follows:

"Sec. 2. This amendatory act shall become effective when the department of Michigan Grand Army of the Republic becomes disbanded, and the final journal of the activities of such organization shall have been filed by the secretary thereof in the office of the governor."

35.232 Veterans' headquarters custodian; compensation, expenses, annual report; Michigan historical commission, preservation of records.

Sec. 2. The custodian of the Michigan veterans' headquarters shall receive such compensation as shall be appropriated by the legislature, and he is hereby authorized to incur such expense as shall be necessary, within the appropriation made therefor by the legislature. Annually on or before the first day of July of each year, the custodian shall make a report to the governor of the activities of the Michigan veterans' headquarters during the preceding year.

All the records, files and documents of the department of the Michigan Grand Army of the Republic shall be turned over to the Michigan historical commission, on the effective date of this act, and shall be preserved by the Michigan historical commission.

HISTORY: CL 1897, 1688;—Am. 1911, p. 256, Act 159, Eff. Aug. 1;—CL 1915, 1037;—CL 1929, 890;—Am. 1947, p. 313, Act 213, Eff. Oct. 11;—CL 1948, 35.232.

COMPILERS' NOTE: Section 2 of amendatory Act 213 of 1947 provides as follows:

"Sec. 2. This amendatory act shall become effective when the department of Michigan Grand Army of the Republic becomes disbanded, and the final journal of the activities of such organization shall have been filed by the secretary thereof in the office of the governor."

35.241-35.248 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for incorporation of the Sons of Veterans.

35.251-35.257 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for incorporation of the Ladies' Aid Society, auxiliary to the Sons of Veterans.

35.261-35.265 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for incorporation of Michigan Commanderies of the Military Order of the Loyal Legion.

Act 174, 1931, p. 274; Imd. Eff. May 27.

AN ACT to incorporate the United Spanish War Veterans, Department of Michigan, and subordinate camps of the United Spanish War Veterans.

The People of the State of Michigan enact:

35.271 United Spanish war veterans; incorporation.

Sec. 1. That the United Spanish War Veterans, Department of Michigan, and subordinate camps of the United Spanish War Veterans of the Department of Michigan may be incorporated in pursuance of the provisions of this act.

HISTORY: CL 1948, 35.271.

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35.272 United Spanish war veterans; articles of association, execution, contents.

Sec. 2. The commander, senior vice-commander, junior vice-commander, adjutant and quartermaster, of the Department of Michigan, United Spanish War Veterans, may make and execute articles of association under their hands and seals, which articles of association shall be acknowledged before some officer authorized by law to take acknowledgments of deeds, and shall set forth:

First, The names of the officers above mentioned and their places of residence;

Second, The corporate name by which the association shall be known in law;

Third, The object and purpose of such association, which shall be to promote the general welfare of the order known as the United Spanish War Veterans, and the period for which it is incorporated, which shall not exceed 30 years.

HISTORY: CL 1948, 35.272.

NAMES AND EMBLEMS: For protection in general, see Compilers' § 430.1 et seq.; in particular, see Compilers' § 430.151.

35.273 Articles of association and rules and regulations; filing; body corporate, powers and duties; trust property; by-laws.

Sec. 3. A copy of said articles of association, together with a copy of the rules and regulations of the United Spanish War Veterans, shall be filed with the secretary of state, and thereupon the persons who shall sign such articles of association, their associates and successors, shall be a body politic and corporate by the name expressed in such articles of association, and by that name, they and their successors shall have succession and shall be persons in law capable to purchase, take, receive, hold and enjoy to them and their successors estates, real and personal, of suing and being sued, and to have a common seal which may be altered or changed at pleasure, but said corporation shall have no power to divert any gift, grant, or bequest from the specific purpose or purposes designated by the donor or donors. It shall also have the power to act as trustee under any gift or bequest for any specified purpose within those named by its rules and regulations or the spirit thereof, and may administer such trust by such officers and in such manner as is in accordance with such rules and regulations of the order and with the specified instructions of the donor or donors, and such trust when so created shall not be invalid for want of the names of specific beneficiaries to be benefited thereby. And in case the charter of any such camp or department should be taken away or surrendered, or whenever such camp or department shall become defunct as a corporation and incapable of carrying out the provisions of any such trust as trustee thereof, the same shall be turned over to and received by a commission, or board of trustees, of not more than 3 persons in number, which said board of trustees shall be appointed by the circuit court of the county in which said camp was organized, or if said property be real estate, in which said real estate is situated, which said board of trustees shall continue to administer said trust fund in accordance with the provisions and the spirit of the rules and regulations of the United Spanish War Veterans, and the conditions expressed in said trust, and they shall account to and be governed in the management thereof by said court, and may be required to give the same bonds as receiver appointed under the general powers of the court: Provided, That the value of the real estate and personal estate owned in fee by said camp or department, shall not exceed the value of 100,000 dollars, and that they and their successors shall have power to give, grant, sell, lease, demise and dispose of such real and personal estate or any part thereof to be disposed of, together with the proceeds, rent and income, as directed by such corporation under its rules and regulations. Said corporation shall have full power to make and establish rules and by-laws for regulating and governing all of its affairs and business not repugnant to the laws and constitution of this state or of the United States, and to designate, elect, or appoint from its members such officers under

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such name and style as shall be in accordance with the rules of the United Spanish War Veterans.

HISTORY: CL 1948, 35.273.

35.274 Articles of association; certified copy admissible as evidence.

Sec. 4. A copy of the record of such articles of association under the seal of the state, duly certified by the secretary of state, shall be received as prima facie evidence in all courts of this state of the existence and due organization of such corporation.

HISTORY: CL 1948, 35.274.

35.275 United Spanish war veterans; power to charter and govern camps.

Sec. 5. Such corporation when duly formed shall have power to institute and charter camps of the United Spanish War Veterans within this state, and from time to time issue such orders for the government of camps as are not repugnant to the rules and regulations of the national headquarters of the United Spanish War Veterans of the United States.

HISTORY: CL 1948, 35.275.

35.276 Subordinate camps; incorporation; articles of association, execution; body corporate, powers and duties; certified copy of articles as evidence.

Sec. 6. At any time when a subordinate camp of the United Spanish War Veterans shall by a 2/3 vote of the members present, at any regular meeting of said camp, resolve to become incorporated, the commander, senior vice-commander, junior vice-commander, and adjutant of such camp, may make and execute articles of association under their hands and seals, specifying as provided in section 2 of this act, and file a copy of the resolutions passed at a regular meeting of the camp, with the clerk of the county in which such corporation shall be formed, which shall be recorded by such clerk in a book to be kept in his office for that purpose, and thereupon such camp of the United Spanish War Veterans, the officers thereof, their associates and successors, shall be a body politic and corporate by the name expressed in such articles of association, and by that name they and their successors shall have succession, and shall be persons in law with the same powers, duties and liabilities as the United Spanish War Veterans, Department of Michigan, have under section 3 of this act: Provided, That a certified copy of the record of such articles of association, under the seal of the circuit court of the county where such record is recorded, shall be received as prima facie evidence in all the courts in this state of the existence and due organization of such corporation.

HISTORY: CL 1948, 35.276.

35.277 United Spanish war veterans corporation; erection of buildings and memorials; joint construction with public corporation; cemeteries.

Sec. 7. Any corporation formed in pursuance of this act may erect and own such suitable memorial edifice, building, or hall, as to such corporation may seem proper for its purpose, and it may, if so desired, create for that purpose a capital stock of not more than 100,000 dollars, to be divided into shares of not more than 10 dollars each, which said shares may be subscribed for and held by any person, but in case such persons, or any persons holding shares who are not members of said camp or of the department encampment of said department, or agents of the same, they shall have no voice in the control of said building during the life of said corporation: And provided further, In case any such corporation so desires, it may, for the purpose of building any such memorial buildings, unite in the erection thereof with any township, village, city or county, to be used jointly for the purpose of the United Spanish War Veterans, and the public purposes of any such public corporation, in such manner and form as may be agreed upon by the parties thereto respectively: Provided, That in case of the joint

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erection of any such memorial building, that when any such camp or department becomes defunct as a corporation the said building shall belong in perpetuity to the public corporation and its successors, subject to the provisions of law. And any such corporation organized under this act may take, purchase, hold and own suitable lots or parcels of ground as may be convenient for the purposes of a cemetery, and make all lawful rules and regulations for the disposition of lots therein and the burial of the dead: Provided, This act shall not be construed to affect any municipal regulation in regard to cemeteries: And provided further, That any such corporation may join with any public corporation in the creation of any such cemetery, or division of any existing cemetery, but in case of such joint agreement, such cemetery, after the dissolution of the said corporation, shall revert to and become the property of, or subject to the control of, any such public corporation, to be maintained by it in perpetuity as a distinct United Spanish War Veteran division of such cemetery.

HISTORY: CL 1948, 35.277.

35.278 Application of general corporation act.

Sec. 8. All corporations formed under this act shall be subject to the provisions of the general corporation act of this state so far as the same may be applicable to corporations formed under this act.

HISTORY: CL 1948, 35.278.

NOTE: General corporation act is Compilers' § 450.1 et seq.

Act 71, 1915, p. 121; Eff. Aug. 24.

AN ACT to provide permanent headquarters in the capitol building for the Spanish war veterans, department of Michigan, to designate the purposes for which the same shall be used, and to provide for an annual report by the commander.

The People of the State of Michigan enact:

35.281 Spanish war veterans' headquarters; maintenance; department commander in charge; records, access.

Sec. 1. The board of state auditors shall set apart a suitable furnished room in the capitol at Lansing, to be known as "headquarters room of the Spanish war veterans, department of Michigan." Said room shall be given like care and attention as is given to other office rooms in the capitol. The room shall be under the charge of the commander of the Spanish war veterans for the department of Michigan and such officer or officers of the Spanish war veterans as he or his successors in office may appoint, and said room shall be used for the purpose of storing its supplies and property, arranging and keeping the records and history of the department of Michigan Spanish war veterans, and conducting the general office business of the department as directed by the commander. The records shall be accessible under suitable rules and regulations established by the commander of the department or his authorized assistant, to members of the Spanish war veterans and others engaged in collecting historical information.

HISTORY: CL 1915, 1038;—CL 1929, 891;—CL 1948, 35.281.

35.282 Department commander; annual report to governor; contents, printing, distribution.

Sec. 2. The commander of the department of the Michigan Spanish war veterans shall annually report to the governor on or before the first day of June of each year, such portions of the transactions of the Spanish war veterans as he may deem to be of interest to that organization and the people of the state. Eight hundred copies of this report shall be printed and bound in paper cover. Two hundred copies shall be distrib-

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uted among the members of the legislature and state officers, and 600 copies shall be delivered to the commander of the department for distribution among the camps of the Michigan Spanish war veterans.

HISTORY: CL 1915, 1039;—CL 1929, 892;—CL 1948, 35.282.

Act 265, 1929, p. 638; Eff. Aug. 28.

AN ACT to provide permanent headquarters in the capitol or state office building for the United Spanish war veterans, department of Michigan; to designate the purposes for which same shall be used; to authorize the state administrative board to provide funds for maintenance of same, and to provide for the annual reports of the department commander and department president.

The People of the State of Michigan enact:

35.291 United Spanish war veterans' headquarters; maintenance; department commander in charge; records, access.

Sec. 1. The board of state auditors shall set apart a suitable furnished room in the capitol, or state office building, at Lansing, to be known as "headquarters room of the United Spanish war veterans, department of Michigan". Said room shall be given like care and attention as is given to other office rooms in the capitol and state office building. The room shall be under the charge of the department commander of the United Spanish war veterans for the department of Michigan and such officer or officers of the United Spanish war veterans as he or his successors in office may appoint, and said room shall be used for the purpose of storing the supplies and property and arranging and keeping the records and history of the department of Michigan, United Spanish war veterans and auxiliary, and conducting the general office business of the department as directed by the department commander. The records shall be accessible under suitable rules and regulations established by the department commander or his authorized agent, or assistant, to members of the United Spanish war veterans and others engaged in collecting historical information.

HISTORY: CL 1929, 893;—CL 1948, 35.291.

35.292 Department commander; annual report to governor; contents, printing, distribution.

Sec. 2. The commander of the department of Michigan, United Spanish war veterans, shall annually report to the governor on or before the first day of June of each year, such portions of the transactions of the United Spanish war veterans and auxiliary as he may deem to be of interest to those organizations and the people of the state. Sixteen hundred copies of these reports shall be printed and bound in paper cover. Four hundred copies shall be distributed among the members of the legislature and state officers, and 1,200 copies shall be delivered to the department commander for distribution among the camps and auxiliaries of the United Spanish war veterans in Michigan.

HISTORY: CL 1929, 894;—CL 1948, 35.292.

35.301-35.308 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for relief of sick, disabled and needy Spanish war veterans.

Act 207, 1945, p. 280; Eff. Sep. 6.

AN ACT naming United States route No. 23, the "United Spanish war veterans memorial highway" in the state of Michigan; and prescribing the duties of the state highway commissioner with respect thereto.

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The People of the State of Michigan enact:

35.311 United Spanish war veterans' memorial highway; location.

Sec. 1. The highway now known as United States route No. 23, running from the Ohio-Michigan state line, through the counties of Monroe, Washtenaw, Livingston, Genesee, Saginaw, Bay, Arenac, Iosco, Alcona, Alpena, Presque Isle and Cheboygan, and ending at Mackinaw City in Cheboygan county, in the state of Michigan, is hereby declared to be, and henceforth shall be known as the "United Spanish war veterans memorial highway."

HISTORY: CL 1948, 35.311.

35.312 Memorial highway; markers.

Sec. 2. The state highway commissioner shall provide for the erection of suitable markers upon said highway indicating the name of the highway.

HISTORY: CL 1948, 35.312.

35.321-35.325 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for medals of honor for Spanish war veterans.

35.331-35.338 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided for incorporation of United States World War Veterans.

Act 263, 1951, p. 428; Eff. Sep. 28.

AN ACT to establish the rights and privileges of officers and employees of the state of Michigan and of civil and political subdivisions thereof who enter into armed forces of the United States; and to provide for enforcement of the rights and privileges created.

The People of the State of Michigan enact:

35.351 Definitions.

Sec. 1. When used in this act—

(a) The term "public employee" means any person holding a position in public employment, both classified and unclassified.

(b) The term "public employment" means remunerative employment by the government of this state, or of any county, municipality, or other civil or political subdivision thereof, including any department, agency or instrumentality thereof.

(c) The term "public employer" means any government, department or agency mentioned in subsection (b) of this section employing a public employee in a position.

(d) The term "position" means employment, whether probationary or otherwise, held by a public employee at the time of entrance into military duty, but shall not include temporary or casual employment or an office filled by election, nor officers appointed for a fixed term.

(f) The term "military duty" means (1) training and service performed by an inductee, enlistee or reservist or any entrant into a temporary component of the armed forces of the United States, and (2) time spent in reporting for and returning from such training and service, or if a rejection occurs, from the place of reporting therefor: Provided, That the time spent does not exceed the minimum time required by law for the inductee or not exceed 3 years for the first enlistment, or not exceed 3 years for the reservist after being recalled to active duty or as soon after the expiration of such 3

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years as the reservist is able to obtain orders relieving him from active duty: And provided further, That if the re-employment provision of the selective service act is amended to provide a period of other than 3 years, such a period provided by the selective service act shall apply.

HISTORY: New 1951, p. 428, Act 263, Eff. Sep. 28.

35.352 Public employees entering military duty; reemployment, restoration or placement in other position or department.

Sec. 2. (a) Any public employee who leaves a position while this act is in effect, or who left such position prior to such effective date but not earlier than June 27, 1950, whether voluntarily or involuntarily, in order to perform military duty, or who was performing military duty on June 27, 1950, and who is relieved or discharged from such duty under honorable conditions, and makes application for reemployment within 90 days after he is relieved from military duty or from hospitalization continuing after discharge for a period of not more than 1 year shall—

(1) If still qualified to perform the duties of such position, be restored to such position if it exists and is not held by a person with greater seniority, otherwise to a position of like seniority, status and pay;

(2) If not qualified to perform the duties of such position by reason of disability sustained during such service, such public employee shall be placed in such other position, the duties of which he is qualified to perform, as will provide him like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of his case.

(b) In the case of any person who is entitled to be restored to a position in accordance with the provisions of this act, if it is determined that the department or agency with which such person was employed immediately prior to his entry upon training and service aforesaid—

(1) Is no longer in existence and its functions have not been transferred to any other agency, or

(2) For any reason it is not feasible for such person to be restored to such department or agency,

it shall be determined whether or not there is a position in any other department or agency of the same public employer for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto or less seniority than the employee returning from military service. In any case in which it is determined that there is such a position, such person shall be restored in service and appointed to such position by the department or agency in which such position exists.

HISTORY: New 1951, p. 429, Act 263, Eff. Sep. 28.

35.353 Reemployment of public employees; subsequent discharge; seniority; insurance and other benefits.

Sec. 3. Any person who is restored to a position in accordance with the provisions of this act shall not be discharged from such position without cause within 1 year after such restoration, unless all employees in the same classification with less seniority are first laid off and shall, without limiting other rights conferred by this or other sections, be considered as having been on furlough or leave of absence during his period of military duty. He shall be restored without loss of seniority, including, upon promotion or other advancement following completion of any period of employment required therefor, a seniority date in the advanced position which will place him ahead of all persons previously junior to him who advanced to the position during his absence in the armed forces. He shall also be entitled on reinstatement to participate in insurance (including pension plans and medical insurance) and other benefits dependent on length of employment to the same extent as if he had remained continuously at work; he shall have

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the option to continue during his term of military service payments which participation in the benefit would have required of him had he remained at work, and shall have the option upon reinstatement to make up any such contributions which were not made during the period of his military duty; the employer shall make on the employee's behalf any payments the employer would have made had the employee remained at work. He shall be protected against reduction in his seniority, status or pay during his employment except as such reduction may be made for all employees whose employment situations are similar. Nothing in this section shall be construed as requiring the granting of more than a total of 6 years' credit towards retirement.

HISTORY: New 1951, p. 429, Act 263, Eff. Sep. 28.

35.354 Public employee; leave of absence for induction in military service.

Sec. 4. Any public employee who holds a position in public employment shall be granted a leave of absence for the purpose of being inducted or otherwise entering military duty. If not accepted for such duty, the employee shall be reinstated in his position without loss of seniority or status, or reduction in his rate of pay.

HISTORY: New 1951, p. 430, Act 263, Eff. Sep. 28.

35.355 Enforcement of act; regulations; responsibility of official agency; noncompliance by public employer, hearing; officials responsible for reinstatement.

Sec. 5. (a) The official agency or individual responsible for the enforcement of this act is authorized to issue regulations for the enforcement of the act. The departments and agencies in the government in this state and the governments of the civil and political subdivisions thereof shall comply with such regulations and orders issued by such official agency or individual pursuant thereto. The official agency or individual shall, whenever it finds upon appeal of the person concerned, that any department or agency aforesaid has failed or refuses to comply with the provisions of this act or of regulations thereunder to issue an order specifically requiring such department or agency to comply with such provisions and to compensate such person for any loss of salary or wages suffered by reason of failure to comply with such provisions, less any amount received through other employment: Provided, That any such compensation ordered to be paid shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions, and shall be paid by the head of the department or agency concerned out of appropriations currently available for salaries and expenses of such department or agency, and such appropriations shall be available for such purpose.

(b) In case any public employer fails or refuses to comply with the provisions of this act, the circuit court for the district in which such public employer is located shall have power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employers' unlawful action: Provided, That any such compensation shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions. The court shall order speedy hearing in any such case and shall advance it on the calendar. Upon application to the attorney general by any person claiming to be entitled to the benefits of such provisions, the attorney general, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the advisable adjustment of the claim or in the filing of any motion, petition or other appropriate pleading, and the prosecution thereof specifically to require such employer to comply with such provisions. No fees or court costs shall be taxed against any person who may apply for such benefits: Pro-

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vided, That only the employer shall be deemed a necessary party respondent to any such actions.

(c) In the state government or any of its political subdivisions or instrumentalities, the following official agencies or individuals shall have the responsibility for reinstating public employees covered by this act in accordance with the provisions of this act: The civil service board or commission, the chief executive, or administrative officer where there is no civil service board or commission. Where there is neither a civil service board or commission, a chief executive, nor administrative officer, then the local governing body shall have such responsibilities.

HISTORY: New 1951, p. 430, Act 263, Eff. Sep. 28.

35.356 Laws inapplicable.

Sec. 6. Any laws or parts of laws, which are inconsistent with the provisions of this act, or which would serve to defeat the purposes thereof, shall to such extent be deemed inapplicable to public employers and public employees in the exercise of the rights and privileges conferred by this act.

HISTORY: New 1951, p. 431, Act 263, Eff. Sep. 28.

Act 205, 1897, p. 261; Eff. Aug. 30.

AN ACT to prefer honorably discharged members of the armed forces of the United States for public employments. Am. 1944, 1st Ex. Ses., p. 33, Act 22, Imd. Eff. Feb. 29.

The People of the State of Michigan enact:

35.401 Veterans; preference for public employment; qualifications; county civil service laws.

Sec. 1. In every public department and upon the public works of the state and of every county and municipal corporation thereof honorably discharged soldiers, sailors, marines, nurses and members of women's auxiliaries of every war in which the United States of America has been, is, or may hereafter be a participant, shall be preferred for appointment and employment; age, loss of limb or other physical impairment which does not, in fact, incapacitate, shall not be deemed to disqualify them. Whenever it shall become necessary to fill by appointment any vacancy occurring in any elective office, the appointment shall be deemed to be within the provisions of this act. The applicant shall be of good moral character and shall have been a resident of the state for at least 2 years and of the county in which the office or position is located for at least 1 year, and possesses other requisite qualifications, after credit allowed by the provisions of any civil service laws. In any instance where there is a conflict between the provisions of this act and Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.427 of the Compiled Laws of 1948, the provisions of Act No. 370 of the Public Acts of 1941, as amended, shall prevail.

HISTORY: CL 1897, 1690;—Am. 1899, p. 125, Act 85, Imd. Eff. May 25;—Am. 1907, p. 476, Act 329, Eff. Sept. 28;—CL 1915, 1041;—Am. 1919, p. 402, Act 224, Eff. Aug. 14;—Am. 1923, p. 114, Act 88, Eff. Aug. 30;—CL 1929, 900;—Am. 1931, p. 112, Act 66, Imd. Eff. May 4;—Am. 1939, p. 689, Act 298, Eff. Sept. 29;—Am. 1944, 1st Ex. Ses., p. 33, Act 22, Imd. Eff. Feb. 29;—CL 1948, 35.401;—Am. 1959, p. 255, Act 179, Eff. Mar. 19, 1960.

35.402 Veterans; removal, suspension or transfer from public employment; notice, hearing; protest, waiver; reinstatement, compensation.

Sec. 2. No veteran or other soldier, sailor, marine, nurse or member of women's auxiliaries as indicated in the preceding section holding an office or employment in any public department or public works of the state or any county, city or township or village of the state, except heads of departments, members of commissions, and boards and heads of institutions appointed by the governor and officers appointed directly by the mayor of a city under the provisions of a charter, and first deputies of such heads

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of departments, heads of institutions and officers, shall be removed or suspended, or shall, without his consent, be transferred from such office or employment except for official misconduct, habitual, serious or willful neglect in the performance of duty, extortion, conviction of intoxication, conviction of felony, or incompetency; and such veteran shall not be removed, transferred or suspended for any cause above enumerated from any office or employment, except after a full hearing before the governor of the state if a state employee, or before the prosecuting attorney if a county employee, or before the mayor of any city or the president of any village, or before the commission of any such city or village operating under a commission form of government, if an employee of a city or village, or before the township board if a township employee, and at such hearing the veteran shall have the right to be present and be represented by counsel and defend himself against such charges: Provided further, That as a condition precedent to the removal, transfer, or suspension of such veteran, he shall be entitled to a notice in writing stating the cause or causes of removal, transfer, or suspension at least 15 days prior to the hearing above provided for, and such removal, suspension or transfer shall be made only upon written order of the governor, the prosecuting attorney, the mayor, commission, or the township board: Provided, however, That where such veteran has been removed, transferred, or suspended other than in accordance with the provisions of this act, he shall file a written protest with the officer whose duty under the provisions of this act it is to make the removal, transfer, or suspension, within 30 days from the day such veteran is removed, transferred, or suspended; otherwise the veteran shall be deemed to have waived the benefits and privileges of this act: Provided, however, Said hearing shall be held within 30 days of filing such notice: Provided further, That the mayor of any city or the president of any village or the commission of any such city or village operating under a commission form of government may refer any protest where a veteran is removed, transferred, suspended or discharged, to the legal department of such city or village for a hearing. The legal department shall act as a fact finding body and shall have the power to examine witnesses, administer oaths and do all those things which the mayor could do hereunder: Provided further, That the findings shall be transmitted to the mayor in writing by the legal department, whereupon the mayor shall examine the transcript of the hearing and make a decision based on the transcript thereof: And provided further, That where such veteran has been reinstated to his employment upon the written order of the governor of the state if a state employee, the prosecuting attorney if a county employee, the mayor of any city or the president of any village or the commission of any such city or village operating under a commission form of government, or a township board if a township employee, or by an order of any court of competent jurisdiction, then such veteran shall be entitled to receive compensation for the time lost from date of such dismissal or suspension to the date of reinstatement at the same rate of pay received by him at the date of dismissal or suspension.

HISTORY: CL 1897, 1691;—Am. 1899, p. 126, Act 85, Imd. Eff. May 25;—Am. 1907, p. 476, Act 329, Eff. Sept. 28;—CL 1915, 1042;—Am. 1919, p. 403, Act 224, Eff. Aug. 14;—CL 1929, 901;—Am. 1931, p. 112, Act 67, Imd. Eff. May 5;—Am. 1939, p. 689, Act 298, Eff. Sept. 29;—Am. 1944, 1st Ex. Ses., p. 33, Act 22, Imd. Eff. Feb. 29;—CL 1948, 35.402;—Am. 1955, p. 36, Act 32, Imd. Eff. Apr. 19.

35.402a Veterans; military service counted as period of employment.

Sec. 2a. In the event that it shall become necessary for reasons of public policy to reduce the number of persons in any public employment mentioned in this act, the status of persons removed from employment shall be determined on the basis of seniority of service and on the basis of quality of service as determined by the employing authority, and those having the least seniority and least quality of service shall be first removed. In the case of an employee mentioned in section 1 of this act, who was in public employment prior to and at the time of entering military service, the time spent

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in military service shall be added to the period of employment in case he shall return to the same or similar public employment following discharge from military service.

HISTORY: Add. 1949, p. 150, Act 143, Eff. Sep. 23.

35.403 Violation of act; penalty.

Sec. 3. A violation of any of the provisions of this act, by a person having the power of appointment to a position, under him, in either of the departments mentioned in section 1, shall be deemed a misdemeanor and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine of not less than 50 dollars, and not more than 100 dollars, or by imprisonment in the county jail not to exceed 90 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1897, 1692;—Am. 1899, p. 126, Act 85, Imd. Eff. May 25;—Am. 1907, p. 476, Act 329, Eff. Sept. 28;—CL 1915, 1043;—CL 1929, 902;—CL 1948, 35.403.

35.404 Veterans; rejection of application for public employment, remedy.

Sec. 4. In case the application of any such soldier, sailor or marine, shall be rejected by the person having the power of appointment to the position for which he has applied, he shall be entitled to remedy therefor by mandamus to enforce the provisions of this act.

HISTORY: Add. 1907, p. 477, Act 329, Eff. Sept. 28;—CL 1915, 1044;—CL 1929, 903;—CL 1948, 35.404.

Sec. 5. (This was a severing clause section.)

HISTORY: Add. 1931, p. 113, Act 67, Imd. Eff. May 5;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

35.431 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Section made certain world war I veterans eligible for examination for admission to the bar.

Act 359, 1921, p. 652; Eff. Aug. 18.

AN ACT to provide for the issuance of veterans' licenses without cost to former members of the coast guard, soldiers, sailors or marines of the military or naval service of the United States, to hawk, vend and peddle their own goods, wares and merchandise within this state. Am. 1947, p. 16, Act 11, Imd. Eff. Mar. 13.

The People of the State of Michigan enact:

35.441 Peddler's license; issuance to veterans; term, qualifications.

Sec. 1. Every honorably discharged member of the coast guard, soldier, sailor or marine of the military or naval service of the United States, who is a resident of this state, and a veteran of the War of the Rebellion, or of the Spanish-American War, or of the World War, or of World War II, or of any other war in which the United States of America has been or shall be a participant, shall have the right to hawk, vend and peddle his own goods, wares and merchandise within this state, by procuring a license for that purpose to be issued as herein provided, which shall be valid for a period of 1 year.

For the purposes of the administration of this act, a Michigan veteran of World War II shall be deemed to be any person, male or female, whose legal residence is in Michigan, who entered upon or was in active service in the army, navy, marine corps or coast guard, of the United States, at any time for at least 90 days from and after August 27, 1940, to and including the date of the termination of World War II, whether by induction, enlistment, commission, warrant or otherwise, and who has been honorably discharged, retired or separated therefrom, or who has reverted to an inactive sta-

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tus therefrom under honorable conditions: Provided, That former members of the women's auxiliary army corps who refused to accept transfer to or induction into the women's army corps shall not be deemed to be veterans within the meaning of this definition.

HISTORY: CL 1929, 905;—Am. 1947, p. 16, Act 11, Imd. Eff. Mar. 13;—CL 1948, 35.441.

FORMER ACTS: Act 191 of 1901, CL 1915, 6984-7000 and Act 294 of 1913, CL 1915, 7001-7009, were repealed by 1925, p. 62, Sec. 9 of Act 51.

For the general act as to hawking and peddling, see R.S. 1846, Ch. 21, being Compilers' §§ 446.16 to 446.25.

For the present "transient merchants" act, see 1925, p. 61, Act 51, being Compilers' §§ 445.371 et seq.

35.442 Peddler's license; issuance by county clerk without charge; records; transferability.

Sec. 2. On the presentation to the clerk of any county, in which any former member of the coast guard, soldier, sailor or marine may reside, of a certificate of honorable discharge from the coast guard, army, navy or marine corps of the United States, which discharge shall show that the person presenting it is a veteran of the War of the Rebellion, or of the Spanish-American War, or of the World War, or of World War II, or of any other war in which the United States of America has been or shall be a participant, such county clerk shall issue without cost to such former veteran, a veteran's license, soldier, sailor or marine a veteran's license certifying him to be entitled to the benefits of this act. The county clerk shall provide himself with proper blank forms and books and shall keep a record of all licenses issued under the provisions of this act. A veteran's license issued without cost under the provisions of this act, shall be personal to the licensee and any assignment or transfer thereof shall be absolutely void.

HISTORY: CL 1929, 906;—Am. 1947, p. 16, Act 11, Imd. Eff. Mar. 13;—CL 1948, 35.442.

35.443 Construction of act.

Sec. 3. Nothing in this act shall be construed as contravening the provisions of Act No. 191 of the Public Acts of 1901 or Act No. 294 of the Public Acts of 1913, as amended, known as the "itinerant vendors" and "transient merchants" acts.

HISTORY: CL 1929, 907;—CL 1948, 35.443.

NOTE: See note under section 1 in re acts referred to.

Act 105, 1909, p. 212; Eff. Sep. 1.

AN ACT making it unlawful for any common carrier, inn-keeper or proprietor or lessee of any place of public amusement or entertainment, or any agent, servant or representative of any such common carrier, inn-keeper, proprietor or lessee as aforesaid, to debar from the full and equal enjoyment of the accommodations, advantages, facilities or privileges of any public conveyance on land or water, or any inn or place of public amusement or entertainment, any person in the military or naval service of the United States or of this state, and providing a remedy for such disbarment.

The People of the State of Michigan enact:

35.461 Person in military or naval uniform; discrimination prohibited.

Sec. 1. It shall be unlawful for any common carrier, inn-keeper or proprietor or lessee of any place of public amusement or entertainment, or any agent, servant or representative of any such common carrier, inn-keeper, proprietor or lessee as aforesaid, to debar from the full and equal enjoyment of the accommodations, advantages, facilities, or privileges of any public conveyance on land or water, or any inn or of any

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place of public amusement or entertainment any person in the military or naval service of the United States or of this state, wearing the uniform prescribed for him at that time or place by law, regulation, or the service or custom, on account of his wearing such uniform, or of his being in such service.

HISTORY: CL 1915, 8418;—CL 1929, 908;—CL 1948, 35.461.

35.462 Person in military or naval uniform; discrimination, damages; prima facie evidence.

Sec. 2. Any person who is debarred from such enjoyment contrary to the provisions of section 1 of this act, shall be entitled to recover in an action on the case from any corporation, association or person guilty of such violation, his actual damages and 100 dollars in addition thereto; and evidence that said person debarred was at the time sober, orderly and able and willing to pay for said enjoyment in accordance with the rates fixed therefor for civilians, shall be prima facie evidence in said action that he was debarred on account of his wearing such uniform or of his being in such service.

HISTORY: CL 1915, 8419;—CL 1929, 909;—CL 1948, 35.462.

Act 263, 1927, p. 506; Imd. Eff. May 24.

AN ACT to define persons in the armed forces of the United States officially stationed in Michigan, as residents within the meaning of such term, in the game and fish laws. Am. 1968, p. 28, Act 16, Imd. Eff. Apr. 5.

The People of the State of Michigan enact:

35.471 Armed forces personnel; considered residents under game and fish laws.

Sec. 1. All persons regularly enlisted or commissioned as officers in the armed forces of the United States and officially stationed in Michigan, shall be considered for the purposes of all game and fish laws, as residents of this state and shall have all privileges of residents of this state under the game and fish laws.

HISTORY: CL 1929, 910;—CL 1948, 35.471;—Am. 1968, p. 29, Act 16, Imd. Eff. Apr. 5.

Act 323, 1939, p. 797; Eff. Sep. 29.

AN ACT to empower the boards of supervisors of any of the several counties and the legislative bodies of any of the several cities of the state of Michigan to appropriate moneys from the general fund for the purpose of contributing towards the expenses of conventions held by the several organizations of veterans of the wars of the United States. Am. 1952, p. 130, Act 115, Eff. Sep. 18.

The People of the State of Michigan enact:

35.481 Conventions of congressionally chartered veterans' organizations; appropriations by counties or cities.

Sec. 1. The boards of supervisors of the several counties and the legislative bodies of the several cities within the state of Michigan, or any of them, are hereby authorized and empowered to appropriate moneys out of the general fund of said counties or cities to an amount not exceeding $1,000.00 in any 1 year for the purpose of contributing towards the expenses of conventions to be held within the county or city, during the year, by the several congressionally chartered organizations of veterans who have served the United States of America during the time when the United States of America was at war: Provided, That in counties or cities now or hereafter having a popula-

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tion of 50,000 or over, as determined by the last federal decennial census or by any federal decennial census hereafter taken, the boards of supervisors of such counties and/or the legislative bodies of such cities, or any of them, are hereby authorized and empowered to appropriate moneys out of the general fund of such counties or cities, to an amount not exceeding $5,000.00 in any 1 year for such purposes: Provided further, That in counties or cities now or hereafter having a population of 500,000 or over, as determined by the last federal decennial census or by any federal decennial census hereafter taken, the boards of supervisors of such counties and/or the legislative bodies of such cities, or any of them, may appropriate not to exceed $25,000.00 for national conventions of said veterans' organizations.

HISTORY: Am. 1941, p. 512, Act 298, Eff. Jan. 10, 1942;—Am. 1945, p. 37, Act 39, Eff. Sep. 6;—CL 1948, 35.481;—Am. 1952, p. 130, Act 115, Eff. Sep. 18.

Act 79, 1889, p. 84; Imd. Eff. May 8.

AN ACT to authorize the leasing of public buildings and parts thereof in this state to grand army posts and to posts of organized veterans' organizations at a nominal rent. Am. 1945, p. 284, Act 212, Imd. Eff. May 17.

The People of the State of Michigan enact:

35.491 Lease of public buildings to posts of Grand Army of the Republic or veterans' organizations; authorization; rent, determination.

Sec. 1. Any county, city, town, village or school district in the state of Michigan is hereby authorized to lease for any period not exceeding 5 years each to any post to the grand army of the republic, or to any post of any organized veterans' organization established in any such county, city, town, village or school district, to be used by such posts, any public building or any part thereof, belonging to any such county, city, town, village or school district, except school houses in actual use as such, at a nominal rent to be fixed by the board of supervisors of such county, the board of aldermen of such city, the township board, the board of trustees of such village, or the school boards or boards of education of said district.

HISTORY: How. 4859q;—CL 1897, 3490;—CL 1915, 1040;—CL 1929, 895;—Am. 1945, p. 284, Act 212, Imd. Eff. May 17;—CL 1948, 35.491.

UNITED SPANISH WAR VETERANS: Act 229 of 1929 appropriated for the fiscal year ending June 30, 1930, $18,000 to erect a building on camp site owned by State and leased to United Spanish War Veterans at Higgins Lake. The appropriation was made subject to the supervisory control of the state administrative board.

Act 104, 1943, p. 143; Eff. Jul. 30.

AN ACT relating to the effect of the death of a person in the armed forces of the United States or associated or connected therewith, or the happening of any other event which by operation of law would otherwise terminate the relationship between a principal and an agent, upon an agency created by such person as principal.

The People of the State of Michigan enact:

35.501 Principal and agent relationship; effect of unreported death of principal in armed forces.

Sec. 1. The authority of any person, firm, corporation or other legal entity empowered to act as agent under a written power of attorney or otherwise, by any person in the service of the United States, in the armed forces thereof or assigned to duty having any military or civilian connection with the operations of such forces, while serving outside the continental United States, for any lawful purpose or purposes whatsoever,

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shall not be revoked or terminated by the death of the principal while in said service or associated or connected therewith as aforesaid, but shall continue as to the agent or other person who, without actual knowledge or actual notice of the death of the principal, shall have acted or shall act, in good faith, under or in reliance upon such power of attorney or agency, and any action so taken, unless otherwise invalid or unenforceable, shall be binding on the heirs, devisees, legatees, or personal representatives of the principal. An affidavit, executed by the attorney-in-fact or agent, setting forth that he has not or had not, at the time of doing any act pursuant to the power of attorney, received actual knowledge or actual notice of the revocation or termination of the power of attorney, by death or otherwise, or notice of any facts indicating the same, shall, in the absence of fraud, be conclusive proof of the non-revocation or non-termination of the power at such time. If the exercise of the power requires execution and delivery of any instrument which is recordable under the laws of this state, such affidavit, when authenticated for record in the manner prescribed by law, shall likewise be recordable. No report or listing, either official or otherwise, of "missing" or "missing in action," as such words are used in military parlance, shall constitute or be interpreted as constituting actual knowledge or actual notice of the death of such principal or notice of any facts indicating the same, or shall operate to revoke the agency. This act shall not be construed so as to alter or affect any provision for revocation or termination contained in such power of attorney. The provisions hereof shall apply whether such power shall have been granted before or after the effective date of this act.

HISTORY: Am. 1947, p. 49, Act 42, Eff. Oct. 11;—CL 1948, 35.501.

Act 195, 1943, p. 289; Eff. Jul. 30.

AN ACT to provide for the suspension of the powers of a trustee engaged in war service, as herein defined; to provide for the exercise of his powers and duties by co-trustees, or the appointment of a substitute trustee while so engaged and the exercise of such powers and duties by such substitute trustee; for the service of notice of hearing before the court on the trustee engaged in war service in certain instances; and to provide for the restoration of his powers and the removal from office of any substitute trustee appointed hereunder when he shall cease to be so engaged.

The People of the State of Michigan enact:

35.511 Trustee engaged in war service; suspension of powers, appointment of co-trustee or substitute trustee.

Sec. 1. Whenever a trustee of an express trust is, or hereafter shall be engaged in war service, as herein defined, the circuit court in chancery may, upon the petition of such trustee, or any co-trustee, or upon petition of any person having a beneficial interest in the trust administered by such trustee, whether singly or jointly with others, or any person interested in the subject matter thereof by way of remainder, issue an order suspending the powers of such trustee while he is engaged in war service and until further order of said court.

(a) Where there are 2 or more trustees serving jointly, the trustee or trustees not engaged in war service may, after the issuance of said order, and until otherwise ordered by said court, exercise all powers which he or they might have exercised as surviving trustee or trustees under any instrument creating a trust, or by virtue of their office, in the same manner and to the same extent as if the trustee whose powers have been suspended as aforesaid had died: Provided, however, That no such powers may be exer-

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cised by one who is a beneficiary under a trust of which he is sole acting trustee, unless the instrument creating the trust so provides.

(b) Where there are 2 or more trustees, 1 or more of whom is or shall be engaged in war service, the court may, notwithstanding the provisions of subsection (a) of section 1 hereof, upon petition of any of such trustees, or any person beneficially interested in the trust administered by them, or any person having an interest in the subject matter thereof by way of remainder, appoint a co-trustee to serve in the place and stead of the trustee whose powers have been suspended as aforesaid. Such appointment may be made simultaneously with and by the terms of the order suspending such powers or at any time thereafter; and when such substitute trustee shall have been appointed and shall have lawfully entered upon the execution of his trust, all trustees not engaged in war service shall, until otherwise ordered by the court, serve with the same powers and with like effect as if the trustee whose powers have been suspended as aforesaid had died and a successor had been appointed in his place and stead.

(c) Where a sole trustee is or shall be engaged in war service, the court may, upon petition of such sole trustee, or any person beneficially interested in the trust administered by him, or any person having an interest in the subject matter thereof by way of remainder, appoint a substitute trustee or substitute trustees who shall have the sole authority, until otherwise ordered by said court, to exercise all powers previously possessed by the trustee whose powers have been suspended as herein provided.

HISTORY: CL 1948, 35.511.

35.512 Trustee; restoration of powers.

Sec. 2. When the trustee whose powers have been suspended as aforesaid shall cease to be engaged in war service, as determined by the court, and any of the duties of his office shall not have been fully performed, the court shall, on petition of such trustee or any person beneficially interested in the trust of which he was a trustee prior to such disability, or any person having an interest in the subject matter thereof by way of remainder, issue an order terminating the suspension of his powers, restoring all of the powers possessed by him prior thereto, and removing from office any trustee who may have been appointed to serve in his place and stead.

HISTORY: CL 1948, 35.512.

35.513 Trustee; delivery of property to co-trustee or substitute trustee.

Sec. 3. It shall be the duty of the trustee whose powers have been suspended as provided in this act, to deliver all property in his possession belonging to the trust administered by him to the co-trustees or substitute trustee, and to make and file an accounting within 30 days after the issuance of the order suspending his powers, or within such time as the court may direct: Provided, however, That his failure so to do shall not in any manner affect the validity of any power exercised or act performed by such co-trustees or substitute trustee in the course of the performance of the duties of their office. Such accounting may be lawfully made and filed in behalf of said trustee engaged in war service by his agent thereunto duly authorized in writing.

HISTORY: CL 1948, 35.513.

35.514 Trustee; order for appearance, publication and mailing, proof.

Sec. 4. Whenever a petition filed under the provisions of section 1 hereof by a person other than the trustee engaged in war service, shall be duly sworn to and shall state that the trustee engaged in war service cannot be personally served by reason of his absence from the state of Michigan, the court shall, on the filing thereof, issue an order for the appearance of such trustee within 35 days from the date of said order. Said order shall be published within 10 days from the date of this issuance in a newspaper printed and circulating in the county in which said petition is pending, or such other newspaper as the court may direct, once each week for 3 successive weeks. A

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copy of said order shall be sent by registered mail to the trustee engaged in war service at his last known post office address not later than 10 days prior to the time of the hearing on said petition, and a return receipt shall be demanded. Due proof of such publication and of the sending by registered mail of a copy of said order shall be made and filed in such proceeding. In all cases where such order shall have been issued on the basis of such sworn petition and service thereof shall have been made as herein provided, a return that process has not been personally served on such trustee shall be unnecessary. If the trustee engaged in war service shall be duly represented by an attorney of record in the proceeding in which said petition is pending, service of such order on such trustee by publication or otherwise shall not be required, provided notice be given in the manner provided for service of pleadings in suits pending in the circuit court.

HISTORY: CL 1948, 35.514.

35.515 Instances in which trustee deemed in war service.

Sec. 5. For the purposes of this act a trustee shall be deemed to be engaged in war service in any of the following instances:

(a) If he is a member of the military, naval or air forces of the United States of America or any of its allies;

(b) If he is engaged in any work beyond the borders of the state of Michigan in connection with a governmental agency of the United States of America, or in connection with the American Red Cross or any other body with similar objects;

(c) If he is interned in any enemy country or is in a foreign country or a possession or dependency of the United States of America and is unable to return to the state of Michigan;

(d) If it shall appear to the court that he is engaged in any occupation which is in direct aid of the war effort of the United States of America, or any of its allies, and which necessitates his continuous and extended absence from the state of Michigan.

HISTORY: CL 1948, 35.515.

35.516 Governing law.

Sec. 6. This act shall take immediate effect, and its provisions shall be controlling notwithstanding the provisions of any other statute of this state.

HISTORY: CL 1948, 35.516.

Act 15, 1946 (1st Ex. Ses.), p. 38; Imd. Eff. Feb. 25.

AN ACT to authorize persons who are entitled to the benefits obtainable under the federal "servicemen's readjustment act of 1944," as amended, to enter into contracts and agreements and to do all other proper acts to secure any of said benefits, regardless of any legal disability existing on account of such persons' age; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

35.541 Minor veterans and spouses; contracts, agreements, conveyances or leases of mortgaged property.

Sec. 1. Any person who is eligible to obtain any of the benefits accorded by the "servicemen's readjustment act of 1944," Public Law 346—78th Congress, Chapter 268, 2nd Session, approved June 22, 1944, as amended, and as the same may be hereafter amended from time to time, with his or her spouse, if any, is hereby authorized to enter into contracts and agreements, and do all other proper acts to secure any of said benefits, regardless of any legal disability existing on account of such person's or

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spouse's age; and any such contract or agreement made by any such person or his or her spouse shall not be invalid or voidable by reason of the minority of such person or spouse, and any such person is further empowered with his or her spouse, if any, who may be a minor, to convey or lease any property encumbered by a mortgage executed under the authority of this act. It is the intent and purpose of this act to authorize such persons, or spouses of such persons, under the age of 21 years to enter into valid contracts and agreements, and to do all other acts necessary in connection with obtaining any of said benefits, and in connection with the execution of conveyances of property encumbered by a mortgage executed under the authority of this act, and to impose liability upon such persons and spouses, and for the purpose of this act the defense of minority shall not be interposed.

HISTORY: Am. 1947, p. 318, Act 219, Imd. Eff. June 17;—CL 1948, 35.541.

NOTE: The "servicemen's readjustment act of 1944", above referred to, is 38 U.S.C.A. § 693 et seq.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACT REPEALED: Act 115, 1945.

Act 189, 1945, p. 258; Imd. Eff. May 17.

AN ACT relative to the status of members of the armed forces of the United States, any auxiliary thereof, or the merchant marine, or nurses or civilians on war duty, licensed to engage in any profession or occupation by this state, or registered in meeting the preliminary requirements for any such license.

The People of the State of Michigan enact:

35.551 Members of armed forces with state professional or occupational license; status unchanged until discharge.

Sec. 1. The status of any member of the armed forces of the United States, any auxiliary thereof, or the merchant marine or nurse, who was duly licensed to engage in any profession or occupation by this state, or was registered in meeting the preliminary requirements for any such license, at the time of induction or entering into any such service, shall remain unchanged and in full force and effect, without further action on the part of any such person, until discharged or until the leaving of any such service.

HISTORY: CL 1948, 35.551.

35.552 Act supplemental to existing laws.

Sec. 2. The provisions of this act shall be construed to supplement the laws of this state, and shall stand notwithstanding any provision of law to the contrary.

HISTORY: CL 1948, 35.552.

Act 27, 1946 (1st Ex. Ses.), p. 63; Imd. Eff. Feb. 26.

AN ACT to protect the work and study performed by applicants for license or qualification for any of the trades, occupations or professions before being inducted into the armed forces; to prevent service in the armed forces being considered as a disqualifying interruption of or delay in commencement of any required period of practical experience, apprenticeship, study or training; and to permit boards of examiners and similar boards to equitably evaluate and give credit for training and experience in the armed forces.

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The People of the State of Michigan enact:

35.581 Applicants for license or qualification; service in armed forces not deemed disqualifying interruption.

Sec. 1. Any person seeking license or qualification for any trade, occupation or profession under the laws of this state and whose period of training, study, apprenticeship or practical experience shall have been interrupted by, or who has not entered training, study, apprenticeship or practical experience because of, service in the armed forces during World War II, commencing September 16, 1940, and ending 6 months after the formal declaration of peace by the congress of the United States, and whose service has been honorably terminated, shall be entitled to license or qualification under the provisions of the laws covering his qualification or licensing in force at the time of his entrance into the said armed forces, subsequent legislation notwithstanding. The said service in the armed forces shall not be deemed to be a disqualifying interruption of any required period of training, study, apprenticeship or practical experience, and any board of examiners or other qualification board under the laws of this state may accept periods of training and practical experience in the armed forces in lieu of the required periods of training, study, apprenticeship or practical experience under the laws of this state where said board finds the standards and kinds of work or training performed in the armed forces to be substantially the same as the standards and kinds required under the laws of this state: Provided, That application for benefits under this act shall be made to the respective board of examiners or other qualification board within 6 months of the applicant's release from the armed forces or within 6 months after the effective date of this act whichever is the later date.

HISTORY: CL 1948, 35.581.

35.582 Intent and interpretation of act.

Sec. 2. The intent of this act is to protect the work and study performed by applicants for license or other qualification before being inducted into the armed forces, to prevent service in the armed forces being considered as a disqualifying interruption of any required period of practical experience, apprenticeship, study or training, and to permit boards of examiners and similar boards to equitably evaluate and give credit for training and experience in the armed forces. This act shall be given a liberal interpretation to carry out this intent.

HISTORY: CL 1948, 35.582.

Act 9, 1946 (1st Ex. Ses.), p. 28; Imd. Eff. Feb. 25.

AN ACT to create the Michigan veterans' trust fund, and to define who shall be eligible to receive assistance therefrom; to provide for the disbursement of the income thereof and surplus therein; to create a board of trustees, and to prescribe its powers and duties; to provide for county and district committees, and their powers, duties, and expenses; to prescribe penalties; and to make appropriations to carry out the provisions of this act. Am. 1949, p. 626, Act 306, Eff. Sep. 23;—Am. 1958, p. 153, Act 139, Imd. Eff. Apr. 18.

The People of the State of Michigan enact:

35.601 Michigan veterans' trust fund; creation; postwar reserve fund, transfer; emergency loan fund; appropriation, disbursement; Vietnam era.

Sec. 1. There is created the Michigan veterans' trust fund in the state treasury to be accounted for, safeguarded and the income thereof and the surplus therein to be disbursed as provided in this act. The postwar reserve fund created by Act No. 4 of the

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Public Acts of 1943, as amended, being sections 35.651 to 35.653 of the Compiled Laws of 1948, is transferred to the Michigan veterans' trust fund. Of the funds so transferred, $50,000,000.00 shall remain in the Michigan veterans' trust fund as a trust. Two hundred thousand dollars of the money in said trust fund is appropriated to the Michigan veterans' trust fund board of trustees and transferred to an emergency loan fund, to be disbursed by said board of trustees to Michigan veterans or their legal dependents or to children of deceased veterans who may be engaged upon a course of instruction under any state or federal educational program by such procedure and under such regulations prescribed by the Michigan veterans' trust fund board of trustees as will best safeguard the emergency loan fund and serve its purpose, and any income heretofore or hereafter accruing in said trust fund in excess of said trust of $50,000,000.00 and the $200,000.00 appropriated to the Michigan veterans' trust fund board of trustees, shall be available, and shall be disbursed upon requisition of the board of trustees to provide for the needs of Michigan veterans of World Wars I and II and veterans of the period beginning on June 27, 1950, and later proclaimed by the president of the United States on December 16, 1950, as a state of national emergency, or veterans having served in the Vietnam era which is defined to be that period beginning August 5, 1964, and ending on a date prescribed by the president or the congress, their wives and dependents, in the manner provided in this act. Said fund shall be excluded in determining any surplus or deficiency in the general fund of the state. The transfer herein made shall be deemed to be an appropriation under the provisions of section 3 of Act No. 4 of the Public Acts of 1943, being section 35.653 of the Compiled Laws of 1948. For the purposes of eligibility for participation in the emergency loan fund under this section, the period of service shall be the same as that prescribed by the United States veterans administration.

HISTORY: CL 1948, 35.601;—Am. 1949, p. 627, Act 306, Eff. Sep. 23;—Am. 1951, p. 155, Act 123, Imd. Eff. Jun. 1;—Am. 1952, p. 93, Act 84, Eff. Sep. 18;—Am. 1953, p. 150, Act 146, Imd. Eff. May 29;—Am. 1954, p. 298, Act 117, Eff. Aug. 13;—Am. 1958, p. 153, Act 139, Imd. Eff. Apr. 18;—Am. 1960, p. 105, Act 102, Eff. Aug. 17;—Am. 1968, p. 674, Act 349, Imd. Eff. Jul. 30.

CITED IN OTHER SECTIONS: Sections 35.601 to 35.610 are cited in § 12.73.

35.601a Veteran's trust fund; transfer of assets; sale.

Sec. 1a. The state treasurer is hereby authorized to transfer, with the approval of the state administrative board, all or part of the United States treasury bonds, notes and other evidences of indebtedness in the Michigan veterans' trust fund to the general fund. From time to time, as necessary to meet the cash requirements of the general fund, the state treasurer, with the approval of the state administrative board, shall sell the bonds so transferred and deposit the proceeds in the general fund.

Reimbursement of trust fund, appropriations.

To reimburse the Michigan veterans' trust fund for the bonds transferred pursuant to the provisions of this section, there is hereby appropriated from the general fund:

(1) For the fiscal year beginning July 1, 1959, and for each fiscal year thereafter, the sum of $1,200,000.00 less any sums earned from investments of the fund.

(2) For each of the fiscal years beginning July 1, 1961 and 1962, in addition, the sum of $1,000,000.00.

(3) For each of the fiscal years beginning July 1, 1963 and 1964, in addition, the sum of $2,000.000.00.

(4) For each of the fiscal years beginning July 1, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974 and 1975, in addition, the sum of $4,000.000.00.

(5) For the fiscal year beginning July 1, 1976, in addition, a sum sufficient which, when taken with sums previously appropriated and other investments of the fund, will restore the fund to a principal sum of $50,000,000.00.

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Appropriations as income.

The appropriations made in subdivision (1) of this section shall be deemed "income" as the term is used in this act and shall be disbursed by the board of trustees in the manner and for the purposes prescribed in this act. The appropriations made in subdivisions (2), (3), (4) and (5) of this section shall be invested as directed by the state administrative board pursuant to the provisions of this act.

Nursing facility, grant or loan.

The board of trustees may grant or loan to the state for the purpose of the construction of a nursing facility for the use of members of the veterans' facility at Grand Rapids established under Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Compiled Laws of 1948, portions of the principal and earnings of the Michigan veterans' trust fund not allocated under the provisions of this act.

HISTORY: Add. 1959, p. 473, Act 277, Eff. Dec. 22;—Am. 1970, p. 141, Act 50, Imd. Eff. Jul. 10.

35.602 Veteran; definition; eligibility for trust fund grant; earlier grants validated.

Sec. 2. For the purposes of the administration of this act, a Michigan veteran of World War I, World War II, the Korean conflict or veterans having served in the Vietnam era which is defined to be that period beginning August 5, 1964, and ending on a date prescribed by the president or the congress, and persons who served in the armed forces in an area of hazardous duty for which the armed forces expeditionary medal or campaign medal may have been issued on and after January 31, 1955, to and including August 5, 1964, shall be deemed to be any person, male or female, whose legal residence immediately prior to entering service was in Michigan, who entered upon or was in active service in the armed forces of the United States, at any time for at least 180 days from and after the date of World War I, World War II, the Korean conflict as defined by Act No. 190 of the Public Acts of 1965, as amended, being sections 35.61 and 35.62 of the Compiled Laws of 1948 or Vietnam era, as determined for the purposes of administration of this act, whether by induction, enlistment, commission, warrant or otherwise, and who has been honorably discharged, retired or separated therefrom, or who has reverted to an inactive status therefrom under honorable conditions. However, former members of the women's auxiliary army corps who refused to accept transfer to or induction into the women's army corps shall not be deemed to be veterans within the meaning of this definition. A veteran who did not have legal residence in Michigan immediately prior to entering the military service may become eligible to benefits administered under this act after having established a legal residence in Michigan for a period of not less than 5 years. A veteran whose legal residence was in Michigan prior to entering military service will lose his rights under the provisions of this act by leaving the state of Michigan for a period of time exceeding 2 years. Any person who shall have been separated for reason of physical or mental disability incurred in line of duty prior to the completion of 180 days' service shall be considered a veteran for the purpose of the administration of this act. World War II shall be deemed to be that period from and after August 27, 1940, to the inclusive date of June 30, 1946. Grants made to eligible Michigan veterans between June 30, 1946, and the effective date of this act are declared valid. A person otherwise qualified with at least 90 days of service during World War I as defined in Act No. 190 of the Public Acts of 1965, as amended, shall be deemed a veteran for the purposes of this act.

HISTORY: CL 1948, 35.602;—Am. 1949, p. 627, Act 306, Eff. Sep. 23;—Am. 1951, p. 155, Act 123, Imd. Eff. Jun. 1;—Am. 1960, p. 106, Act 102, Eff. Aug. 17;—Am. 1968, p. 674, Act 349, Imd. Eff. Jul. 30;—Am. 1969, p. 99, Act 51, Imd. Eff. Jul. 21.

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35.602a Korean national emergency period; validation of grants.

Sec. 2a. The period of the state of national emergency beginning June 27, 1950, as proclaimed by the president of the United States December 16, 1950, shall be that period from and after June 27, 1950, to the inclusive date of December 31, 1953. All grants made between December 31, 1953 and the effective date of this act are declared valid.

HISTORY: Add. 1955, p. 148, Act 95, Eff. Oct. 14.

35.603 Trust fund board of trustees; members, appointment, terms, compensation and expenses, oaths of office, removal, assistants.

Sec. 3. There is hereby created a Michigan veterans' trust fund board of trustees to consist of 2 representatives of the American Legion, 2 representatives of the Veterans of Foreign Wars of the United States, 1 representative of the Disabled American Veterans, and 1 representative of the American Veterans of World War II, to be appointed by the governor upon recommendation of the organizations herein named, for terms of 3 years each: Provided, That of the members first appointed, 2 shall be appointed for a term of 3 years each, 2 for a term of 2 years each, and 2 for a term of 1 year. Each member of the board shall be an honorably separated veteran of World War II or the national emergency which commenced on June 27, 1950. Members of the board shall serve without compensation, but shall be entitled to actual and necessary expenses incurred in carrying out their duties. It is further provided that any organization composed exclusively of honorably discharged veterans of World War II, or the national emergency which commenced on June 27, 1950, which has attained a bona fide membership of not less than 7,500, and which organization has established not less than 40 posts in not less than 25 counties of the state, shall be eligible for representation on the board of trustees, under the same provisions as other representation on the board of trustees is attained. Each member of the board shall qualify by taking and filing the constitutional oath of office, and shall serve until the appointment and qualification of his successor. The governor may remove any member of the board for misfeasance, malfeasance or nonfeasance in office, after hearing. The board of state auditors shall furnish suitable offices for use of the board. The board is authorized to employ such assistants and incur such expense as shall be necessary in carrying out the provisions of this act.

HISTORY: CL 1948, 35.603;—Am. 1954, p. 296, Act 117, Eff. Aug. 13.

CITED IN OTHER SECTIONS: The above section is cited in § 16.206.

35.604 Board of trustees; powers and duties.

Sec. 4. The board of trustees shall be a policy-making body, on the state level, and shall have the following powers and duties:

(a) To determine the purposes for which available moneys in the trust fund in excess of $50,000,000 are to be allocated to the several veterans' county and district committees;

(b) To allocate part or all of available moneys in the trust fund in excess of $50,000,000 to the several veterans' county and district committees, and to disburse said allocations from time to time on the basis of need;

(c) To prescribe rules governing the granting of assistance to Michigan veterans, their unremarried widows and dependents on the basis of need, including the prescribing of the necessary forms and the making of necessary reports and accounting; for the purposes of the administration of this act dependents shall be considered to be any persons legally entitled to look to the veteran for his or her support;

(d) To collect data and information as to the facilities and services available to Michigan veterans and disseminate the same to veterans' organizations and individual

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veterans: Provided, however, That in no event shall more than $5,000.00 be expended for this purpose in any 1 year;

(e) To do all acts necessary in carrying out the provisions of this act;

(f) To receive and accept gifts and donations of property, real or personal, and shall hold, use and apply the property so received for purposes set forth in the instrument of gift and in accordance with the provisions of such instrument and subject to the conditions and limitations, if any, therein expressed, if the purposes limited by such gifts are within the purposes of this act;

(g) To submit to the governor a quarterly fiscal report and an annual report of operations and such other reports as may be requested by the governor covering the activities of the board;

(h) The Michigan veterans' trust fund board of trustees shall not be empowered to file application for or to prosecute the claim of any individual for any benefit accruing to such individual under the laws administered by the United States veterans' administration.

HISTORY: CL 1948, 35.604;—Am. 1949, p. 628, Act 306, Eff. Sep. 23.

35.605 Trust fund; surplus and earnings, allocation, disbursement, investment; bonds, purchase; custody of fund.

Sec. 5. Ten percent of the surplus in and the earnings of the Michigan veterans' trust fund shall be allocated to the board of trustees for distribution to county and district committees on the basis of need as determined by the board of trustees, and the balance of the surplus in and earnings of the trust fund shall be allocated in part or in full to the several county and district committees on the basis of veteran population, as determined from time to time by the board of trustees. The funds made available to the board of trustees for distribution to county and district committees on the basis of need as determined by the board of trustees shall be disbursed only for the same purposes of providing for needs of Michigan veterans of World War I or World War II or of the national emergency which commenced on June 27, 1950, or their dependents as are the funds allocated to county and district committees on the basis of veteran population. The state administrative board shall have full power to direct the investment of the trust fund in bonds or other obligations of the United States, the state of Michigan, or of any county, city, village or school district of the state, or of any other legally constituted taxing subdivision within the state, or in revenue bonds secured by property within the state of Michigan, or in mortgage bonds or notes insured by the federal housing administrator, or debentures issued by such administrator, or in bonds, notes, debentures or other obligations in which both principal and interest are insured or guaranteed by the federal government, or obligations of national mortgage associations created under the national housing act, or amendments thereto. All such bonds or other obligations shall be purchased at current market price and all such purchases shall be authorized by a resolution adopted by the state administrative board. The state treasurer shall be custodian of the Michigan veterans' trust fund. The trust fund shall be considered state funds and shall be protected by the official bond of the state treasurer.

HISTORY: CL 1948, 35.605;—Am. 1949, p. 210, Act 197, Imd. Eff. May 27;—Am. 1949, p. 628, Act 306, Eff. Sep. 23;—Am. 1954, p. 297, Act 117, Eff. Aug. 13;—Am. 1968, p. 675, Act 349, Imd. Eff. Jul. 30.

35.606 Veterans' county committees; members, appointment, removal, compensation and expenses, offices; appeals.

Sec. 6. The board of trustees shall establish in the several counties of the state representative veteran county committees for the administration of the allocated moneys on the local level, and may combine 2 or more counties into a district when, in the opinion of the board of trustees, a more efficient local administration may result therefrom.

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Each veteran county or district committee shall consist of 1 representative of the American Legion, 1 representative of the Veterans of Foreign Wars of the United States, 1 representative of the Disabled American Veterans, and 1 representative of the American Veterans of World War II, to be appointed by the board of trustees upon recommendation of the organizations herein named. When in any county or district not more than 2 of the above named 4 organizations have organized and functioning local units, the 2 organizations existing in such county or district are empowered to jointly recommend the appointment of a third honorably discharged veteran of World War II or of the national emergency which commenced on June 27, 1950, to serve on such county or district committee. The board of trustees may also appoint on a county or district committee a representative of any local World War II veterans' organization now in existence or which may be hereafter organized, which has in its membership not less than 3% of all veterans originally entering the service from the territory covered by the county or district committee. Each member of a county or district committee shall be an honorably separated veteran of World War II or of the national emergency which commenced on June 27, 1950. The board of trustees may remove any member of a county or district committee for misfeasance, malfeasance or nonfeasance in office, after hearing. Members of county and district committees shall serve without compensation, but shall be entitled to actual and necessary expenses incurred in carrying out their duties, such expenses together with administration expenses to be paid from moneys allocated to county and district committees as herein provided. It shall be the duty of the several boards of supervisors, or boards of county auditors in counties having boards of county auditors, to provide suitable office space for veteran county and district committees. Any veteran who considers himself aggrieved at any decision rendered by a county or district committee in connection with his request for assistance may appeal to the board of trustees, and the decision of the board of trustees on any appeal referred to it shall be final and binding on the veteran and the county or district committee.

HISTORY: CL 1948, 35.606;—Am. 1949, p. 629, Act 306, Eff. Sep. 23;—Am. 1954, p. 297, Act 117, Eff. Aug. 13.

35.607 Funds; distribution by auditor general.

Sec. 7. Funds shall be distributed to the several county treasurers by the auditor general by warrant on the state treasurer based on vouchers drawn by the board of trustees. The funds so distributed shall be credited by the county treasurer to a county veterans' trust fund, and shall be disbursed by the county treasurer on vouchers drawn by the county clerk based on orders filed by the county or district committee. Allocations to district committees shall be distributed to the several county treasurers of the counties composing the district. Said veterans' trust fund shall be covered by the official bond of the county treasurer.

HISTORY: CL 1948, 35.607.

35.608 Veterans' committees; regulation by state board of trustees; audit by auditor general.

Sec. 8. The several county and district committees shall be governed by the rules and regulations of the state board of trustees. The board of trustees, the several veteran county or district committees and the several county treasurers shall be subject to audit by the auditor general in the same manner as provided under the accounting laws of the state for state departments and counties.

HISTORY: CL 1948, 35.608.

35.609 Obtaining or giving grant by fraud; penalty.

Sec. 9. Any person who shall knowingly, by fraudulent representations, obtain or allow to be obtained any payment or aid herein provided for shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not to exceed

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$500.00 or imprisonment in the county jail not to exceed 6 months, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 35.609.

35.610 Appropriation.

Sec. 10. There is hereby appropriated from the general fund of the state the sum of $50,000.00 to the board of trustees to defray expenses in carrying out the provisions of this act, to be disbursed in accordance with the accounting laws of the state.

HISTORY: CL 1948, 35.610.

Act 192, 1953, p. 255; Eff. Oct. 2.

AN ACT to create a county department of veterans' affairs in certain counties, and to prescribe its powers and duties; and to transfer the powers and duties of the soldiers' relief commission in such counties.

The People of the State of Michigan enact:

35.621 County department of veterans' affairs; creation; administrative committee, members, appointment, terms, vacancies.

Sec. 1. The board of supervisors may create a county department of veterans' affairs. The department shall be under the administration of a committee of 3 veterans, appointed by the board of supervisors, who shall be residents of such county and who shall be honorably discharged soldiers, sailors, marines, nurses or members of the women's auxiliaries, of the United States army and navy, volunteers or regulars, who served actively in any war in which the United States has been, is or may hereafter be a participant, as defined in title 38 of the United States code, 1 of whom shall have served in World War I, 1 of whom shall have served in World War II and 1 of whom shall have served in the Korean War. If a World War I veteran cannot be located who is willing to serve, a veteran of any war may be appointed to serve on the committee. Notwithstanding the provisions of any law of this state to the contrary, a member of the board of supervisors of such county shall be eligible to appointment. Members appointed by the board of supervisors shall be appointed for a term of 3 years each. Of the members first appointed 1 shall be appointed for a term of 1 year, 1 for a term of 2 years and 1 for a term of 3 years. Vacancies shall be filled in the same manner as original appointments for the unexpired term.

HISTORY: New 1953, p. 255, Act 192, Eff. Oct. 2;—Am. 1958, p. 170, Act 156, Eff. Sep. 13;—Am. 1968, p. 300, Act 204, Imd. Eff. Jun. 24.

35.622 Soldiers' relief commission; abolition, transfer of powers and duties to county department of veterans' affairs.

Sec. 2. In any county in which the board of supervisors adopts the provisions of this act, section 2 of the act creating the soldiers' relief commission created under the provisions of Act No. 214 of the Public Acts of 1899, as amended, being section 35.22 of the Compiled Laws of 1948, is hereby declared to be inoperative and the powers and duties of commission are hereby transferred to the county department of veterans' affairs created under the provisions of this act, and wherever soldiers' relief commission is used in Act No. 214 of the Public Acts of 1899, as amended, and Act No. 235 of the Public Acts of 1911, as amended, being sections 35.801 to 35.804 of the Compiled Laws of 1948, it shall mean the county department of veterans' affairs herein created.

HISTORY: New 1953, p. 256, Act 192, Eff. Oct. 2;—Am. 1958, p. 170, Act 156, Eff. Sep. 13.

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35.623 Administrative committee of county department; selection of officers, expenses; veterans' service officer, appointment; offices.

Sec. 3. The committee shall select a chairman and a secretary. The committee is authorized to incur such expense as shall be necessary in carrying out the provisions of this act within the budget set up by the board of supervisors. The members of the committee shall be entitled to receive the same per diem and mileage in attending meetings as members of the board of supervisors. The committee shall appoint a veterans' service officer and such other employees as shall be necessary from time to time to carry out the provisions of this act. In the selection of the veterans' service officer hereby authorized, the committee shall consult with and request the assistance of any association or council of organized veterans in such county, and any recommendation from such association or council of veterans as to the personnel to be appointed by said committee under the provisions of this act, while not binding on said committee, shall be given the greatest consideration. The board of supervisors shall furnish, equip and maintain reasonably adequate office facilities for the county department of veterans' affairs.

HISTORY: New 1953, p. 256, Act 192, Eff. Oct. 2.

35.624 County department; powers and duties.

Sec. 4. The county department of veterans' affairs shall perform such duties and exercise such powers as shall be necessary in carrying out the provisions of this act and any and all other benefits to which veterans may be entitled as prescribed by the county department of veterans' affairs.

HISTORY: New 1953, p. 256, Act 192, Eff. Oct. 2.

Act 4, 1943, p. 5; Imd. Eff. Feb. 16.

AN ACT to create a post-war reserve fund in the state treasury, and to provide for the disbursement thereof.

The People of the State of Michigan enact:

35.651 Post-war reserve fund; creation, purpose.

Sec. 1. There is hereby created a post-war reserve fund in the state treasury in the amount of $50,000,000.00 for the purpose of liquidating Michigan's obligations, after the termination of the war, to its returning service men, their widows or dependents, and said fund shall be excluded in determining any surplus or deficiency in the general fund of the state.

HISTORY: Am. 1945, p. 42, Act 46, Imd. Eff. Mar. 15;—CL 1948, 35.651.

CITED IN OTHER SECTIONS: Sections 35.651 to 35.653 are cited in § 35.601.

35.652 Reserve fund; transfer of funds from general fund.

Sec. 2. For the purpose of this act, the state administrative board is hereby authorized and directed to take action for the immediate transfer from the general fund of the state the sum of $20,000,000.00 to the post-war reserve fund, and it is hereby made the duty of the state treasurer to make such transfer. The state administrative board and the state treasurer are hereby further directed to transfer from the general fund to the post-war reserve fund accruing surplus revenues as promptly as accruing unappropriated revenues shall warrant, until the additional transfers shall bring the post-war reserve fund up to a total of $50,000,000.00.

HISTORY: CL 1948, 35.652.

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35.653 Reserve fund; appropriations and disbursements.

Sec. 3. Appropriations or disbursements from the post-war reserve fund provided for in this act may be made from time to time as authorized by the legislature in regular or special session.

HISTORY: CL 1948, 35.653.

Act 45, 1944 (1st Ex. Ses.), p. 88; Imd. Eff. Mar. 4.

AN ACT to create a veterans' reserve fund, to provide for the disbursement thereof, and to make an appropriation therefor.

The People of the State of Michigan enact:

35.661 Veterans' reserve fund; creation, appropriation from general fund.

Sec. 1. There is hereby created in the state treasury a special fund to be known as the veterans' reserve fund of $1,000,000.00. There is hereby appropriated from the general fund the sum of $1,000,000.00 in the establishment of said fund.

HISTORY: CL 1948, 35.661.

35.662 Veterans' reserve fund; expenditures, supervision by state administrative board.

Sec. 2. Said veterans' reserve fund shall be expended under the supervision and direction of the state administrative board to provide for the hospitalization, medical treatment, education and such emergency care and assistance as may be found necessary during the war period for the returning veterans of Michigan. Such appropriation shall be expended as provided in the accounting laws of the state.

HISTORY: CL 1948, 35.662.

Act 235, 1911, p. 405; Eff. Aug. 1.

AN ACT to provide for the payment and reimbursement by counties, in certain cases upon application therefor, of expenses incurred in the burial of the bodies of army nurses, honorably discharged members of the armed forces of the United States, or the wives or widows of members of the armed forces of the United States, and to repeal certain acts or parts of acts. Am. 1944, 1st Ex. Ses., p. 36, Act 24, Imd. Eff. Feb. 29.

The People of the State of Michigan enact:

35.801 Veterans' funeral expenses; reimbursement by county.

Sec. 1. Whenever any honorably discharged soldier, sailor, marine, nurse or member of the women's auxiliaries, having served in the armed forces of the United States for a period of 90 days or more of active service or was discharged under honorable conditions after having served less than 90 days of active service because of a service connected disability, during any period of time in which the United States was at war or during the Vietnam conflict, or the wife or widow of such soldier, sailor or marine, or any army nurse who was employed as a nurse by authority which is recognized by the war department, and who rendered actual service as a nurse in attendance upon the sick and wounded in any regimental post, camp or general hospital of the armies of the United States for a period of 3 months or more, and who was honorably relieved from such service, shall die not possessed of an estate, both real and personal, exceeding the sum of $15,000.00, over and above all encumbrances and was a resident of the state of Michigan for a period of 6 months prior to entering the service or for a period of 5

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years immediately prior to the death of such person, it shall be the duty of the board of supervisors in the respective counties, or the board of county auditors in counties having a board of county auditors, upon application therefor, by the executor or administrator of the estate of such deceased person, or by the person or persons who may have incurred or advanced the expense in connection with the burial of said army nurse, honorably discharged soldier, sailor, marine, nurse or member of women's auxiliaries, or the wife or widow of said soldier, sailor, marine or nurse, to pay to the estate of such deceased person, or to the person who incurred or advanced such expense, the sum or [sic] $300.00. If the investigation hereinafter provided for shows that said deceased left no dependents surviving, but did leave sufficient estate to meet all lawful claims, including the burial expenses, then the board of supervisors or the county auditors shall not pay said expenses. The application shall be submitted within 2 years from the date of death of such deceased person.

Service, defined.

"Service", as used in this act, shall include all persons serving in the armed forces of the United States in any place of emergency when ordered to so serve by the government of the United States, as defined in section 1 of Act No. 190 of the Public Acts of 1965, as amended, being section 35.61 of the Compiled Laws of 1948, including the Vietnam conflict.

Estate, defined.

"Estate", as used in this section, means the ownership of realty or personalty at the time of death, the title to which property was held either in the sole name of the decedent or by the entireties, tenancy in common, or joint tenancy with the spouse, child or parent of the decedent.

HISTORY: CL 1915, 1057;—Am. 1919, p. 304, Act 165, Eff. Aug. 14;—Am. 1921, p. 273, Act 125, Eff. Aug. 18;—CL 1929, 927;—Am. 1943, p. 159, Act 122, Imd. Eff. Apr. 13;—Am. 1944, 1st Ex. Sess., p. 36, Act 24, Imd. Eff. Feb. 29;—CL 1948, 35.801;—Am. 1952, p. 138, Act 121, Eff. Sep. 18;—Am. 1955, p. 147, Act 94, Eff. Oct. 14;—Am. 1959, p. 342, Act 235, Eff. Mar. 19, 1960;—Am. 1968, p. 574, Act 322, Imd. Eff. Jul. 3;—Am. 1969, p. 100, Act 52, Imd. Eff. Jul. 21.

FORMER ACTS: Act 242 of 1899, repealed Act 170 of 1885, being CL 1897, 1693-1696. The act of 1899 was repealed by Act 39 of 1905, which was amended by Act 163 of 1907. Act 252 of 1909 expressly repealed Act 39 of 1905 and the act of 1909 is repealed by Sec. 5 of this act.

CITED IN OTHER SECTIONS: Sections 35.801 to 35.804 are cited in § 35.622.

35.802 Soldiers' relief commission; investigation of application for reimbursement, compensation.

Sec. 2. It shall be the duty of the members of the soldiers' relief commission of each county, whenever application is made for reimbursement by the county for such funeral expenses paid or advanced, or incurred for the burial of such deceased person, to make an investigation of such claim and report their action to the clerk of the board of supervisors of the county, or to the clerk of the board of county auditors as the case may be, in all cases setting forth all the facts, together with the name, rank and command to which such soldier, sailor, marine, nurse or member of the women's auxiliary belonged, and in case of such wife or widow, the rank and command to which her husband or deceased husband belonged, the name and service rendered as such army nurse, the date of his or her death, place where buried, and his or her residence and occupation while living. They shall require such person or persons who paid, advanced or incurred such burial expenses for such deceased person to furnish the board of supervisors, or board of county auditors in counties having a board of county auditors, with a sworn itemized statement of the expense incurred in the burial of the deceased person mentioned in the application. The members of the commission, except where they are paid a salary, shall receive from the county the sum of $2.00 per day for the time actually and necessarily employed by them in the performance of their duties.

HISTORY: CL 1915, 1058;—CL 1929, 928;—Am. 1943, p. 159, Act 122, Imd. Eff. April 13;—Am. 1944, 1st Ex. Sess., p. 36, Act 24, Imd. Eff. Feb. 29;—CL 1948, 35.802.

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35.803 Duties of county clerk; record of application and reimbursement; headstones.

Sec. 3. It shall be the duty of the clerk of the board of supervisors or board of county auditors as the case may be upon receiving the report and statement of expenses provided for in the preceding section, to transcribe in a book kept for that purpose all the facts contained in said report respecting such deceased soldier, sailor or marine, or the deceased wife or widow of the same, or such deceased army nurse, and to report such application and statement to the board of supervisors or the board of county auditors, as the case may be, at the next meeting thereof. It shall be the further duty of said clerk upon the death and burial of any such soldier, sailor or marine, and upon request therefor, to make application to the proper authorities under the government of the United States for a suitable headstone as is now or may hereafter be provided by act of congress, and to cause the same to be placed at the head of the grave of such deceased soldier, sailor or marine. And also, to cause a suitable headstone to be placed at the head of the grave of the deceased wife or widow of such soldier, sailor or marine or army nurse if the same shall now or hereafter be provided by act of congress.

HISTORY: CL 1915, 1059;—CL 1929, 929;—CL 1948, 35.803.
MARKERS: See Act 63 of 1915, being Compilers' § 35.831 et seq.

35.804 Veterans' funeral expenses; payment by county.

Sec. 4. All expenses incurred in such burial as provided in this act, shall be audited and paid by the board of supervisors, or board of county auditors in counties having a board of county auditors, the same as other legal charges against the county.

HISTORY: CL 1915, 1060;—CL 1929, 930;—CL 1948, 35.804.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1915, 1061;—CL 1929, 931;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 252, 1909.

35.811, 35.812, 35.822 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections authorized purchase of cemetery lots for civil war veterans.

Act 63, 1915, p. 111; Imd. Eff. Apr. 20.

AN ACT to provide for the furnishing, at public expense, suitable markers for the graves of honorably discharged soldiers, sailors and marines, who served in the army of the United States, to provide for the marking and designation of such graves for memorial purposes, to provide a penalty for the removal or destruction of such markers or designs when placed, and to repeal Act No. 136 of the Public Acts of 1907, approved June 12, 1907.

The People of the State of Michigan enact:

35.831 Markers for veterans' graves; furnished by municipality.

Sec. 1. The common council, board of trustees or township board of every city, village or township in this state shall, upon the petition of any 5 reputable freeholders of any such city, village or township, procure for and furnish to said petitioners, at the expense of such city, village or township, some suitable and appropriate metal marker for the grave of each and every dead soldier, sailor and marine who served in the army of the United States and who is buried within the limits of said city, village or township, or within the limits of any cemetery belonging to any such city, village or township, or within the limits of any cemetery generally used by the population of any such city, village or township for burial purposes, and in which its soldiers, sailors or marines have been buried, and which is not controlled by the township authorities in which such cemetery is located; such metal markers so furnished to be placed on the

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grave of each soldier, sailor and marine for the purpose of marking and designating such grave for memorial purposes.

HISTORY: CL 1915, 1062;—CL 1929, 936;—CL 1948, 35.831.

35.832 Petition regarding unmarked graves; contents.

Sec. 2. In all petitions to such common councils or boards, the petitioners shall set forth the names of all such soldiers, sailors and marines whose graves have not been appropriately marked as contemplated in this act, together with the number of such graves at the time of petitioning, and cemetery or cemeteries wherein the same are located.

HISTORY: CL 1915, 1063;—CL 1929, 937;—CL 1948, 35.832.

35.833 Destruction of veterans' grave markers; penalty.

Sec. 3. Any person who shall wilfully take down, destroy, deface or carry away any such marker or other design or memorial flag placed at any such grave or graves for memorial purposes without authority from the person or persons causing the same to be placed in said cemetery or at such grave or graves, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than 5 nor more than 50 dollars, or imprisonment in the county jail for a period not exceeding 90 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 1064;—CL 1929, 938;—CL 1948, 35.833.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 1065;—CL 1929, 939;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 136, 1907.

Act 248, 1929, p. 605; Eff. Aug. 28.

AN ACT to authorize disinterment and removal of remains of war veterans in certain cases, and to prescribe the proceedings to be taken.

The People of the State of Michigan enact:

35.841 Disinterment of bodies; jurisdiction of circuit court in chancery.

Sec. 1. Whenever it shall be desired to disinter and remove the remains of any United States soldier, sailor or marine for the purpose of re-interring such remains in any cemetery or burial place or section of any cemetery or burial place set aside exclusively for the graves of such United States soldiers, sailors or marines, or whenever it is desired to disinter and remove the remains of any such United States soldier, sailor or marine from one grave to another in the same cemetery or burial place, when the purpose of such removal is to collect in 1 common section or plot the graves of United States soldiers, sailors or marines exclusively, the circuit court in chancery for the county in which such soldier, sailor or marine is buried shall have authority to enter a decree directing such disinterment and removal.

HISTORY: CL 1929, 932;—CL 1948, 35.841.

35.842 Petition for disinterment; contents, filing; order to show cause; hearing, decree; consent of next of kin.

Sec. 2. No such decree shall be entered until a petition shall be filed in such court by or on behalf of the "Grand Army of the Republic", and the "United Spanish War Veterans", the "American Legion", or the "Veterans of Foreign Wars", or any encampment, post or chapter thereof, duly verified by its officers thereunto duly designated, which petition shall set forth all the facts, together with the name, rank and command to which such deceased soldier, sailor or marine belonged, the date of death, the place where buried, the names of surviving parents and surviving children, if any, and if no such parents or children survive, then the names of any other next of

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kin, the reasons for which the disinterment and removal of the remains of such deceased are desired, and a description of the place to which such remains are to be removed. Upon the filing of such petition the court shall enter an order directed to the surviving parents and children, if any, and if none, to the other next of kin, directing them to show cause, if they have any, on a day and date in such order to be specified, why the petition should not be granted. In the event that any such persons are minors, the court shall, upon petition of any of the parties in interest, appoint a suitable guardian ad litem, in accordance with the rules and practice of the court. At the hearing on such order to show cause the court shall proceed to hear and determine the merits of such petition and shall make such other or further investigation as it may deem necessary or advisable in the interests of justice and equity, and may thereupon render such decree in the premises as it shall deem appropriate: Provided, however, That no such decree or decrees shall be made in the case where such body is buried in a private lot or crypt unless the written consent of next of kin shall be filed with the court prior to making such decree.

HISTORY: CL 1929, 933;—CL 1948, 35.842.

35.843 Order to show cause for disinterment; service by publication to next of kin; court orders.

Sec. 3. In all proceedings brought under the provisions of this act, if it shall appear by affidavit that any parent, child or other next of kin of such deceased resides without the jurisdiction of the court, or if it is not known whether any such person is living or dead or where he may reside, substituted service by publication may be made as authorized by law, and the rules of the court. In all cases the court shall make such order or orders as may be necessary to preserve and protect the rights of all surviving kin of such deceased soldier, sailor or marine.

HISTORY: CL 1929, 934;—CL 1948, 35.843.

35.844 Decree authorizing disinterment; provisions, filing of certified copy; burial records, correction.

Sec. 4. Every decree authorizing the disinterment and removal of any such remains shall provide that the same shall be done under the supervision of the proper health officers or other local officers, who may be charged with such duty by law. It shall be the duty of the organization petitioning for such removal to cause to be changed and corrected forthwith all burial records of such deceased, of which it may have or be reasonably charged with knowledge, and any decree of removal shall so provide. A certified copy of such decree shall be filed with the sexton or person in charge of any such cemetery to which and from which any such body is removed, and it is hereby made the duty of such sexton or person in charge of any such cemetery to correct all records in his control in accordance therewith.

HISTORY: CL 1929, 935;—CL 1948, 35.844.

Act 130, 1889, p. 150; Eff. Oct. 2.

AN ACT to provide for the joint erection of veterans' memorial or monumental buildings or structures by counties, townships, incorporated villages and cities; to provide for the maintenance of soldiers' monumental buildings erected jointly by municipalities and the grand army of the republic, and the care of property of the grand army of the republic deposited therein. Am. 1959, p. 110, Act 104, Imd. Eff. Jul. 8.

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The People of the State of Michigan enact:

35.851 Veterans' memorials and monumental buildings; joint construction by municipalities.

Sec. 1. Whenever any township, incorporated village, city, or county, in which a veterans' memorial or monumental building or structure is proposed to be erected, desires to erect or to unite with another township or townships, village or villages, city or cities and county or counties in the erection of such veterans' memorial building or structure, each such county, township, village or city shall have the right to aid and assist in the construction and building of the same to the same extent as though such building or structure was to be used solely for such township, village and city or county purposes, and each such township, village, city or county shall have power, and they are hereby authorized to contract with each other and thereby determine the proportions that each said township, village, city or county shall pay towards the construction of said building or structure, the architecture and arrangement of the same, and the separate portions respectively, which shall be occupied or used by the respective parties to such contract. The erection of a veterans' memorial or monumental building or structure is hereby declared to be a township, village, city or county purpose.

HISTORY: How. 993g;—CL 1897, 1700;—CL 1915, 1066;—CL 1929, 940;—CL 1948, 35.851;—Am. 1959, p. 110, Act 104, Imd. Eff. Jul. 8.

35.852 Veterans' memorials; municipal building committee, appointment, powers and duties, tenure.

Sec. 2. For the purpose of carrying the same into effect, each said township, village, city or county is authorized to appoint by its township board, village trustees or common council of any such city, or board of supervisors of any such county, a board of 3 trustees, who shall constitute the building committee in behalf of said township, village, city or county, under the supervision of the township board, village trustees, common council or board of supervisors appointing them, and who shall have power under such supervision to make the contracts hereinbefore specified, and oversee, on the part of such township, village, city or county, the work of constructing such building or structure, and who shall audit and sign all vouchers on the account of the same. Until such time as such board is appointed, the governing body of each municipal corporation may perform such functions. All board members shall serve at the pleasure of the appointing governing body.

HISTORY: CL 1948, 35.852;—Am. 1959, p. 110, Act 104, Imd. Eff. Jul. 8.

35.853 Veterans' memorials; raising building funds.

Sec. 3. Each township, village, city or county so erecting or so uniting in the erection of any such building or structure may raise the funds necessary for the same in the same manner and to the same extent as is now provided by law for the building of municipal buildings.

HISTORY: How. 993i;—CL 1897, 1702;—CL 1915, 1068;—CL 1929, 942;—CL 1948, 35.853;—Am. 1959, p. 110, Act 104, Imd. Eff. Jul. 8.

35.854 Veterans' memorials; property of municipal corporation, uses; perpetual maintenance fund.

Sec. 4. Such buildings and structures shall be and remain the property of the municipal corporations in undivided interests proportionate to the contributions made by each in the original construction cost of such building or structure. Such monumental buildings as were erected jointly by any township, village, city or county and any post or posts or the department of Michigan, of the order known as the grand army of the republic shall be forever dedicated as memorial buildings to the memory of the union soldiers of the war of the rebellion, and all relics, documents, books, papers and library belonging to any such grand army post, or which may be deposited afterwards for such

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purpose, shall be cared for therein by proper supervision, by the public authorities, in a proper room or rooms kept for that purpose, and which shall at all reasonable times be kept open and free to the public. In case any surviving organization of the descendants of such union soldiers become and remain an incorporated body, such incorporated organization may, at its option, and said municipal corporation is hereby authorized and required, if so desired, to permit the said incorporated organization to maintain, so far as possible, the same relations to the municipal corporation in said buildings, as the posts or department of the grand army of the republic might or could do. The amount of money contribution by any post or department of the grand army of the republic to the construction of said building, shall be and remain so long as may be necessary a perpetual fund devoted to the maintenance of such building as a memorial building.

HISTORY: How. 993j;—CL 1897, 1703;—CL 1915, 1069;—CL 1929, 943;—CL 1948, 35.854;—Am. 1959, p. 110, Act 104, Imd. Eff. Jul. 8.

Act 50, 1921, p. 76; Eff. Aug. 18.

AN ACT to authorize and empower townships to own and acquire land by gift or purchase for the erection of memorials to soldiers and sailors; to authorize the erection of such memorials; to provide for the assessment, levy and collection of taxes therefor, for the custody, control and management of such memorials and providing for a referendum by the electors thereof.

The People of the State of Michigan enact:

35.861 Veterans' memorials; acquisition by township of lands therefor; use.

Sec. 1. It shall be lawful for, and the several townships in the state of Michigan are hereby authorized and empowered to own and acquire by gift or purchase, land for the purpose of erecting thereon a suitable memorial to soldiers and sailors of any 1 or more of the wars in which the United States of America has been a participant, and to erect and own such memorial or receive the same, or money or property for the same, as a gift. Said memorial may be of such a nature as to be used, maintained and enjoyed in whole or in part as a museum, library, auditorium or for any other public use or purpose, and such land may also be used, enjoyed and improved, in whole or in part, as a park, or the memorial may take such shape or form or be of such a nature as the township board shall adopt.

HISTORY: CL 1929, 944;—CL 1948, 35.861.

35.862 Tax levy for purchase of lands for veterans' memorial.

Sec. 2. For the purpose of providing funds to carry out the provisions of this act, the township board of such township shall at its annual meeting, levy a sufficient tax, in addition to other taxes now authorized by law, upon the real and personal property subject to taxation in such township, and such taxes shall be collected as other taxes are collected, and when collected shall be applied to the payment of any indebtedness incurred by any township coming under the provisions of this act, and to no other purpose: Provided, That the taxes assessed, levied and collected shall not cause the limit of taxes established by law to be exceeded.

HISTORY: CL 1929, 945;—CL 1948, 35.862.

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35.863 Veterans' memorials on township lands; custody, management and control.

Sec. 3. The custody, management and control of such memorial and all property belonging thereto or intended to be used in connection therewith, shall be vested in the township board of such township.

HISTORY: CL 1929, 946;—CL 1948, 35.863.

35.864 Referendum on purchase of lands for veterans' memorial; petition, notice; ballot, form and contents; publication of results.

Sec. 4. This act shall not become operative until a majority of the electors voting at any regular or special election duly called shall vote in favor of it and shall so express themselves by ballot, upon the operation or non-operation of this act within their township, when properly submitted to such electors in accordance with the following procedure: Upon the filing with the township clerk, of a petition signed by not less than 100 duly and legally qualified electors of such township praying therein for the submission of this question to the electors of their township, the township board shall thereupon meet and order the submission of the question to the electors of the township at the next regular election, which supplies ample time for proper notices and printing of ballots, or at a special election to be called for that purpose in the discretion of the township board; notices of such submission, the posting thereof, publication thereof, and contents thereof to be governed by the general laws pertaining to regular township elections. Votes on the question of the adoption of the provisions of this act shall be taken, counted and canvassed in the same manner as votes cast for candidates voted for in said regular township election. The vote upon the submission of the provisions of this act shall be by ballot in substantially the following form:

Vote on the proposition: "Shall the township erect or construct a memorial to the soldiers and sailors of all our wars at a cost of not more than $.... nor less than $....?"

(Make a cross (X) in the appropriate square below).

"Shall the township erect or construct a memorial to the soldiers and sailors of all our wars at a cost of not more than $.... nor less than $....?

Yes ☐
No ☐."

Ballots shall be furnished by the township board of the township in which submission of this question shall be requested by the requisite number of qualified petitioners of such township, and when voted shall be deposited in a ballot box provided for that purpose. The result of said vote shall be certified to the county clerk and by him to the board of supervisors of the county of which such township is a part, and such county clerk shall also certify the result of such vote to the secretary of state; the result of such election shall also be publicly announced at the polls after the counting of the ballots, and from that time this act will be effective in accordance with the result of such vote.

HISTORY: CL 1929, 947;—CL 1948, 35.864.

Act 325, 1919, p. 563; Imd. Eff. May 13.

AN ACT to authorize and empower cities to own and acquire land, by gift, purchase, condemnation, or otherwise, for the erection of memorials to soldiers and sailors; to authorize the erection of such memorials and determine the character thereof; to provide for the appropriation of money for the acquisition, erection and maintenance thereof, for the assessment, levy and collection of taxes, the borrowing of

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money, and the issuing of bonds therefor, and for the custody, control and management of such memorials.

The People of the State of Michigan enact:

35.871 Veterans' memorials; acquisition of lands by city; use.

Sec. 1. It shall be lawful for, and the several cities in the state of Michigan are hereby authorized and empowered to own and acquire, by gift, purchase, condemnation, or otherwise, land for the purpose of erecting thereon a suitable memorial to soldiers and sailors of any 1 or more of the wars in which the United States has engaged, and to erect and own such memorial, or receive the same, or money or property for the same, as a gift. Said memorial may be of such a nature as to be used, maintained and enjoyed, in whole or in part, as a museum, art gallery, library, auditorium, or for any other public use or purpose, and such land may also be used, enjoyed and improved, in whole or in part, as a park.

HISTORY: CL 1929, 948;—CL 1948, 35.871.

35.872 Appropriation, tax levy or issuance of bonds for purchase of city lands for veterans' memorial; limitation.

Sec. 2. The common council or other legislative body of any city may appropriate money for the purpose of acquiring land for such memorial, and for erecting the same, and for the maintenance and improvement thereof. The sums hereby authorized to be appropriated shall be assessed, levied and collected in the same manner as other expenses of the city; and for the purpose of acquiring such land, and erecting such memorial, said common council, or other legislative body of the city may borrow money on the faith of the city and issue bonds of the city therefor in the same manner as money is borrowed and bonds are issued for other public improvements: Provided, That the taxes assessed, levied and collected, and the indebtedness created for the purposes herein mentioned, shall not cause the limit of taxes and indebtedness established by law to be exceeded.

HISTORY: CL 1929, 949;—CL 1948, 35.872.

35.873 Veterans' memorials on city lands; custody, management and control.

Sec. 3. The custody, management and control of such memorial, and all property belonging thereto or intended to be used in connection therewith, may be vested in such board or commission, now existing, or which may hereafter be created, as the common council or other legislative body of the city shall designate.

HISTORY: CL 1929, 950;—CL 1948, 35.873.

Act 230, 1911, p. 399; Imd. Eff. May 1.

AN ACT to provide for the management and control of the military museum and old battle flags.

The People of the State of Michigan enact:

35.881 Military museum and battle flags; location.

Sec. 1. The military museum shall be kept in the rotunda in the capitol on the basement floor, until such time as the state provides a grand army memorial building. The

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battle flags shall be kept in the cases they now occupy, in the rotunda on the 1st floor of the capitol, for all time and never be taken out unless some other provisions shall be made by the legislature in reference thereto.

HISTORY: CL 1915, 1070;—CL 1929, 951;—CL 1948, 35.881.

35.882 Military museum and battle flags; control and management.

Sec. 2. The board of state auditors shall have full control and management of the museum and battle flags, and a committee of 3 veterans of the civil or Spanish-American war shall be appointed by the department commander, grand army of the republic, to act jointly with the board of state auditors, in soliciting relics, placing them in position and such other assistance as the board may require of them.

HISTORY: CL 1915, 1071;—CL 1929, 952;—CL 1948, 35.882.

35.883 Relics; freight and express charges.

Sec. 3. The board of state auditors is authorized to pay any and all freight or express on relics that it considers of value.

HISTORY: CL 1915, 1072;—CL 1929, 953;—CL 1948, 35.883.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 1073;—CL 1929, 954;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 4, 1947, p. 8; Imd. Eff. Feb. 6.

AN ACT to authorize and provide for the borrowing of $270,000,000.00 to make payments to persons who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, or to their next of kin or estates, and the issuance of certain serial bonds and serial notes for such indebtedness; to create a veterans' military pay fund and a veterans' bond redemption fund; to pledge the full faith and credit of the state; to provide for the payment of principal and interest on such serial obligations; to make appropriations therefor; and to make such serial notes and serial bonds exempt from taxation. Am. 1951, p. 152, Act 121, Imd. Eff. Jun. 1.

The People of the State of Michigan enact:

35.901 Veterans' bonds; issuance by state administrative board; interest, denominations, maturity, registration, reconversion, cancellation, execution by state treasurer, public sale; temporary bonds; proceeds to constitute veterans' military pay fund; state purchase.

Sec. 1. The people of Michigan by constitutional amendment having authorized the state to borrow not to exceed $270,000,000.00, pledge its faith and credit and issue its serial notes or serial bonds therefor, for the purpose of paying to each person, or if deceased to the surviving husband or wife, child or children, or to the surviving dependent mother, father, person standing in loco parentis, brothers and sisters, in the order named, of any person who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, between September 16, 1940, and June 30, 1946, who served honorably and faithfully therein during said period, who was a resident of this state at the time of entering such service and for a period of at least 6 months prior to entering therein, and whose service continued for more than 60 days during said period, the sum of $10.00 for each month, or major fraction thereof, of service during said period in any state of the United States, and the District of Columbia, and the sum of $15.00 for each month, or major fraction thereof, of service during said period outside any state of the United States, and the District of Columbia, but not to exceed a total payment of $500.00 to any 1 person and the payment to the surviving husband or wife, child or children, or to the surviv-

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ing dependent mother, father, person standing in loco parentis, brothers and sisters, in the order named, of each person who has heretofore died or who shall hereafter die from service connected causes incurred between September 16, 1940, and June 30, 1946, a sum equal to the difference between what he has received and the sum of $500.00, the state administrative board is hereby authorized and directed, to borrow upon the full faith and credit of this state money in the sum of not to exceed $270,000,000.00, to issue serial bonds or serial notes of the state in a like amount therefor, and to expend from the veterans' military pay fund herein created a sufficient amount to cover the reasonable cost of the printing and such other expense incident to the issuance of such serial bonds or notes. Said bonds shall be known as veterans' bonds and shall bear interest at a rate or rates not exceeding 2 ½ per centum per annum, payable semi-annually, shall be in the denomination of $1,000.00 each or any multiple thereof, shall be payable to bearer and shall mature serially in annual installments of not less than $10,800,000.00 each, beginning 1 year from their date and ending not later than 1968. Such bonds may at the discretion of the state administrative board be issued at 1 time in 1 series or from time to time in 2 or more separate series with different dates of issuance for each such series, and the state administrative board may from time to time determine and by resolution prescribe, the date of issue of each such series, the amount of bonds to be included in such series, the maturities of such bonds so included, the maximum rate or rates of interest on the bonds so included not to exceed 2 ½ per centum per annum, and the place or places of payment thereof. Such bonds or any part thereof may be made callable prior to maturity upon such terms as may be prescribed prior to the issuance of the bonds by resolution of said state administrative board. Upon such terms and conditions as may be prescribed by resolution of the state administrative board, such bonds may be made registerable as to either principal only or as to both principal and interest or may be converted into registered bonds of such denominations as the state administrative board may authorize, which registered bonds may be reconverted into registered bonds of other denominations or reconverted into coupon bonds. All bonds so presented for conversion or reconversion or payment shall be deposited with the state treasurer, who is hereby authorized and directed forthwith to cancel by perforation and preserve until checked by auditor general.

Said bonds shall be executed for and on behalf of the state of Michigan by the state treasurer and the secretary of state or their deputies and the seal of the state shall be affixed thereto by the secretary of state. Interest coupons evidencing accrued interest to the respective dates of maturity of said bonds shall bear the facsimile signature of the state treasurer. The auditor general shall provide a bond register which shall be kept in the office of the auditor general, in which register shall be recorded the date of each bond, its number, the person or persons to whom originally issued, and the dates of its respective maturity and cancellation.

The bonds herein authorized to be issued shall be sold by the state administrative board, at not less than par and accrued interest. Such sale or sales shall be public sales held from time to time at the discretion of said state administrative board after notice by publication at least 7 days before each such sale, in a publication printed in the English language and circulated in the state of Michigan, which carries as a part of its regular service, notices of the sale of municipal bonds. The bonds so sold at each such sale shall be awarded to the bidder whose bid in the opinion of said state administrative board would result in the lowest interest cost to the state. The state administrative board shall have the right to reject any or all bids.

Pending the execution and delivery of the veterans' bonds, there are hereby authorized to be executed and delivered temporary bonds which upon the execution of the veterans' bonds shall be exchangeable for veterans' bonds of like date, tenor, denomi-

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nation, interest rate and maturity. Said temporary bonds shall be printed from type, on steel engraved borders, shall be numbered T1 consecutively upwards, starting with the temporary bonds of earliest maturity, shall be signed and sealed in the same manner as the definitive veterans' bonds, and shall be issued with not more than 2 interest coupons attached thereto.

Such temporary bonds may be registered in the names of the respective holders thereof on books kept by the state treasurer, as to both principal and interest, but not as to principal alone, such registration being noted by the state treasurer, on any bond so registered, in the registration blank to be printed on the back thereof, after which no transfer shall be valid unless made on said books at the request of the registered holder thereof or attorney duly authorized, and similarly noted in said registration blank, but any such temporary bond so registered may be discharged from registration by being transferred to bearer, after which it shall be transferable by delivery, and it may be again registered as before.

In case any temporary bond shall be mutilated, the holder thereof may obtain a duplicate temporary bond in the same manner and under the same terms as hereinafter provided for the obtaining of duplicate definitive veterans' bonds.

Except as hereinbefore specifically provided, all the terms and conditions for the issuance of, and covenants for the security of the holders of, the veterans' bonds, shall apply to such temporary bonds.

The proceeds of the sale of bonds shall be deposited in the state treasury, and shall constitute a fund to be known as "The veterans' military pay fund," hereby created in the state treasury as a special trust fund, and shall be paid out in no other manner or for any other purpose than provided by law: Provided, That if at any time it shall appear to the finance and budget committee of the state administrative board that there are moneys in the veterans' military pay fund that will not be needed for the payment of veterans' claims under the terms and provisions of Act No. 12 of the Public Acts of 1947, said committee may authorize the state treasurer to purchase Michigan veterans' bonds upon the open market and cancel the same if said bonds may be purchased at par or below, and may authorize the state treasurer to cancel any Michigan veterans' bonds theretofore purchased and then contained in said veterans' military pay fund, or said committee may transfer such funds to the veterans' bond redemption fund provided for in said Act No. 4 of the Public Acts of 1947.

HISTORY: Am. 1948, Ex. Ses., p. 4, Act 3, Imd. Eff. April 22;—CL 1948, 35.901.

NOTE: Act 12, 1947, above referred to, is Compilers' § 35.921 et seq. Act 4, 1947, is this act.

35.901a Veterans' bonds; use of proceeds, provisions applicable.

Sec. 1a. The proceeds of the bond issue authorized under the provisions of this act shall also be used to pay to the surviving husband or wife, child or children, or to the surviving mother or father, or surviving dependent person standing in loco parentis, dependent brothers and dependent sisters, in the order named, of any person who has heretofore died or who shall hereafter die from service connected causes and who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, between June 27, 1950, and the termination of the state of national emergency, which state of national emergency was proclaimed on December 16, 1950, who served honorably and faithfully therein during such period, who was a resident of this state at the time of entering such service and for a period of at least 6 months prior to entering therein, the sum of $500.00: Provided, That the termination of the national emergency for the purpose of this section shall be determined by act of the legislature of this state, and the liability of the state for the purposes herein set forth shall not exceed the total amount that may be borrowed under the provisions of this act: Provided further, That payments made under

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the authority of this section shall be made pursuant to all applicable provisions of Act No. 12 of the Public Acts of 1947, as amended, but only as herein authorized.

HISTORY: Add. 1951, p. 152, Act 121, Imd. Eff. Jun. 1.

CITED IN OTHER SECTIONS: The above section is cited in § 35.975.

35.902 Veterans' bonds; appropriation for payment of principal and interest.

Sec. 2. For the prompt payment of the principal and interest upon each bond issued under this act, the proceeds of a tax to be levied as provided in section 23 of article 10 of the state constitution and the faith and credit of the state are pledged, and there is hereby appropriated each year during the life of these bonds, from the general fund, the sum, which the amount of the principal and interest payments for each year may exceed the proceeds of such tax: Provided, That for the fiscal year ending June 30, 1957, such appropriation shall be the sum by which the amount of the principal and interest payments for such year exceeds the remaining balance of cash and United States securities in the veterans' military pay fund at June 30, 1957, which is hereby transferred to the veterans' bond redemption fund. Any veterans' military pay fund bonds purchased by the veterans' military pay fund and which are a part of the investments of this fund are hereby cancelled.

Redemption fund.

There is hereby created in the state treasury a special fund to be known as "The veterans' bond redemption fund" in which shall be deposited all tax receipts and other sums of money appropriated and authorized to be deposited therein by the legislature.

Transfer of surplus from redemption fund to general fund.

On the effective date of this act, the amount by which the assets exceed the liabilities in the veterans' bond redemption fund shall be transferred to the general fund of the state.

Expenses of administration, appropriation.

The expenses of administration of this act, including paying agent fees, shall be paid from the general fund in accordance with the accounting laws of the state and there is hereby appropriated annually from the general fund an amount sufficient to pay such expenses and fees.

HISTORY: CL 1948, 35.902;—Am. 1953, p. 25, Act 28, Imd. Eff. Apr. 10;—Am. 1957, p. 207, Act 175, Imd. Eff. Jun. 4;—Am. 1958, p. 16, Act 18, Imd. Eff. Mar. 21.

35.903 Serial notes; issuance by state administrative board; maturity, redemption, interest, sale, denominations; proceeds credited to veterans' military pay fund.

Sec. 3. To provide immediate funds, prior to the sale of the heretofore authorized bonds, for the payment to persons who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, between September 16, 1940, and June 30, 1946, or to their next of kin or estates, the state administrative board is hereby authorized and empowered, on behalf of the state of Michigan to borrow, from time to time, upon the full faith and credit of this state such sums of money, not exceeding $270,000,000.00, as may be necessary therefor. As evidence of such loan or loans the state administrative board may by resolution direct and cause to be issued serial notes of the state of Michigan, and to renew the same: Provided, however, That all such serial notes shall mature within 3 years after the effective date of this act. Such notes or any renewals thereof shall be made redeemable at the option of the state administrative board upon any interest payment date. They shall bear semi-annual interest at such a rate as may be prescribed by the state administrative board, not exceeding 1 ½ per centum per annum and shall be in the form prescribed by the state administrative board. They shall be offered for sale at

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such times and in such manner as said board may direct. Every sale of serial notes shall be made at the best price obtainable; and in no case shall they be sold for less than par and accrued interest. Such notes shall be signed by the state treasurer and the secretary of state, or their deputies, and shall be issued in denominations of not less than $5,000.00 each. The proceeds of the sale of serial notes shall be credited to "The veterans' military pay fund" in the state treasury, and shall be paid out in no other manner for any other purpose than provided by law. The principal of serial notes shall be payable out of "The veterans' military pay fund," and the interest thereon shall be payable from "The veterans' bond redemption fund," or if such funds are insufficient to meet these payments, such principal and interest shall be payable from the general fund of the state, and any amounts necessary to meet the principal of and interest upon the serial notes issued hereunder are hereby appropriated from the general fund.

HISTORY: CL 1948, 35.903.

35.904 Serial bonds and notes; exemption from taxation.

Sec. 4. All serial bonds and serial notes issued under the provisions of this act, and interest thereon, shall be exempt from all taxation by the state or by any municipality or political subdivision thereof.

HISTORY: CL 1948, 35.904.

35.905 Serial bonds and notes; mutilation, replacement.

Sec. 5. In case any bond or note issued under the provisions of this act shall become mutilated the state administrative board may, upon such terms and conditions as it may prescribe, provide for the issuance of a new bond or note with like terms, in exchange and substitution therefor. Such new bond or note shall be executed in the manner herein provided.

HISTORY: CL 1948, 35.905.

35.906 Declaration of immediate necessity of act.

Sec. 6. An emergency existing for the reasons, among others, that it is necessary immediately to relieve distress among veterans and their dependents and to enable the state to borrow money for that purpose at the lowest possible interest cost, this act is declared to be necessary for the preservation of the public peace, health and safety.

HISTORY: CL 1948, 35.906.

Act 12, 1947, p. 17; Imd. Eff. Mar. 19.

AN ACT to provide for payments to persons who served in the armed forces of the United States between September 16, 1940, and June 30, 1946, and to beneficiaries of such persons; to provide for payments to persons entitled to benefits under section 25, article X of the constitution of this state; to prescribe the powers and duties of the state administrative board and state officers with respect thereto; to provide for acceptance of financial and other assistance from the federal government; to provide for certain administrative expenses; to make certain appropriations; and to prescribe penalties for violations of the provisions of this act. Am. 1951, p. 153, Act 122, Imd. Eff. Jun. 1.

The People of the State of Michigan enact:

35.921 Veterans' military pay act; short title.

Sec. 1. This act shall be known and may be cited as the "veterans' military pay act."

HISTORY: CL 1948, 35.921.

CITED IN OTHER SECTIONS: Sections 35.921 to 35.932 are cited in § 35.983.

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35.922 Veterans' military pay act; definitions.

Sec. 2. As used in this act:

(a) "Period of service" means the period of time between September 16, 1940, and June 30, 1946, and for purposes of section 25, article 10 of the constitution of this state, also means the period of time between June 27, 1950, and the termination of the state of national emergency, which state of national emergency was proclaimed on December 16, 1950.

(b) "Veteran" means each man or woman who has served honorably and faithfully for more than 60 days in the military, naval, marine or coast guard forces of the United States, at any time during the period of service, and who was a resident of the state of Michigan at the time of entering such service and for at least 6 months prior thereto, and who has not applied for or received similar payments from another state.

(c) "Beneficiary" means, in relation to a deceased veteran, the surviving husband or wife, child or children, or the surviving dependent mother, dependent father, dependent person standing in loco parentis, dependent brothers and sisters, in the order named, which determination may be made by the probate court of the county of residence of the veteran at the time of death on petition of the adjutant general.

(d) "Honorable and faithful service" shall be such service as is evidenced by

(1) an honorable discharge, or

(2) in the case of an officer, a certificate of service, or

(3) in the case of a veteran who has not been discharged, a certificate from appropriate service authority that his service was honorable and faithful.

(e) "Foreign service" means military service by a veteran during the period of service anywhere outside of any state of the United States and the District of Columbia.

(f) "Domestic service" means military service by a veteran during the period of service in any state of the United States and the District of Columbia.

(g) "Adjutant general" means the adjutant general of the state of Michigan.

(h) "Board" means the state administrative board.

(i) "Resident" means a person who has acquired a status as follows:

(1) Was born in and lived in the state of Michigan until entrance into the armed forces of the United States; or

(2) Was born in, but was temporarily living outside the state of Michigan, not having abandoned residence therein prior to entrance into the armed forces of the United States; or

(3) Was born elsewhere but had resided within the state of Michigan for at least 6 months prior to entrance into military service and had prior to or during such 6 months' period

(a) registered for voting in the state of Michigan, or

(b) being an unemancipated minor during such period of residence had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in subparagraphs (1), (2), (3a), (3b) or (3c) of this subsection (i), or

(c) if not registered for voting in the state of Michigan, was not registered for voting in another state: Provided, That applications filed under this act prior to March 18, 1949, which have been rejected by the adjutant general because of non-compliance with the foregoing requirement shall be eligible for allowance despite such non-compliance if the applicant had not voted in another state within 6 months prior to entering service, and had resided in the state of Michigan for at least 6 months prior to entrance into the armed forces of the United States; or

(4) No information appearing on the discharge of the veteran which shows "permanent address for mailing purposes", "address from which employment will be sought",

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and "home address at time of entry into service", in another state, shall necessarily be construed to mean that the veteran thereby intended to abandon his residence in the state of Michigan for the purpose of this act.

(5) In all other cases than those outlined under subparagraphs (1), (2) and (3) of this subsection (i) complies with the residence requirements set forth in section 23 of article 10 of the state constitution, in accordance with the rules and regulations of the board.

HISTORY: CL 1948, 35.922;—Am. 1949, p. 376, Act 270, Imd. Eff. Jun. 7;—Am. 1951, p. 153, Act 122, Imd. Eff. Jun. 1.

35.923 Payment to veteran; maximum for domestic and foreign service.

Sec. 3. Each veteran shall be paid for domestic service $10.00 for each month or major fraction thereof and shall be paid for foreign service $15.00 for each month or major fraction thereof. If the veteran be deceased, payment shall be made to the beneficiary. No payment made under this section on account of any 1 veteran shall exceed $500.00.

HISTORY: CL 1948, 35.923.

35.924 Payment to beneficiary of deceased veteran; maximum.

Sec. 4. There shall be paid on application to the beneficiary of each veteran heretofore or hereafter deceased from service connected causes arising during the period of service a sum equal to the difference between any payments received by the veteran or his beneficiary under section 3 and the sum of $500.00. In the event the veteran or his beneficiary has not received payment under section 3 the entire sum of $500.00 shall be paid to the beneficiary.

HISTORY: CL 1948, 35.924.

35.924a Payment to parents of deceased veteran; maximum, appropriation.

Sec. 4a. There shall be paid on application of the mother and father, or the surviving parent, of each veteran heretofore or hereafter deceased from service connected causes arising during the period of service a sum equal to the difference between any payments received by the veteran or his beneficiary under section 3 and the sum of $500.00. In the event the veteran or his beneficiary has not received payment under section 3, the entire sum of $500.00 shall be paid to the mother and father, or the surviving parent. Any person or persons claiming payment under this section shall not be required to prove dependency. There is hereby appropriated from the general fund of the state the sum of $200,000.00, to be credited to the veterans' military pay fund, to pay benefits under the provisions of this section.

HISTORY: Add. 1947, p. 613, Act 330, Imd. Eff. July 2;—CL 1948, 35.924a.

35.924b Construction of act; payments.

Sec. 4b. All payments made pursuant to the provisions of section 25, article 10 of the constitution of this state shall be made in accordance with all applicable provisions of this act, but this act shall in no way be construed as authorizing any payments to persons with respect to military service between June 27, 1950, and the termination of the state of national emergency, other than to those persons entitled to payments under said provisions of section 25, article 10 of the constitution.

HISTORY: Add. 1951, p. 154, Act 122, Imd. Eff. Jun. 1.

35.925 Application for payment by veteran or beneficiary; requirements, evidence of service.

Sec. 5. Each veteran or his beneficiary entitled to payment shall make application to the adjutant general upon such form as may be prescribed by him: Provided, That if the veteran be incompetent or his beneficiary be incompetent or a minor application shall be made by his guardian. Each application shall be accompanied by a certified

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copy of honorable discharge as defined in section 2, or by such evidence of honest and faithful service during the period of service as shall be prescribed by said adjutant general. Each application shall be subscribed and sworn to by the applicant before witnesses in such manner as shall be prescribed by the adjutant general: Provided, That the adjutant general shall provide by regulation for an endorsement on the evidence of service required in section 2d that application for payment has been made.

HISTORY: CL 1948, 35.925.

35.926 Veterans' military pay fund; creation, payment procedure; nonassignability of claims; rejection of claim, notice, appeal; exemptions; expenses of court; review of claims denied prior to act.

Sec. 6. Upon submission to him of satisfactory proof that the applicant is entitled to payment under this act, the adjutant general shall compute the amount of payment due the applicant, make a record thereof, and transmit the claim for payment in accordance with the accounting laws of the state. Payment shall be made from the veterans' military pay fund, hereby appropriated for such purpose, except that after June 30, 1957, payments authorized by sections 4 and 4a of this act shall be paid from the state general fund. The amount necessary is hereby appropriated from any unappropriated balance in the state general fund: Provided, That no claim for payment under this act shall be assignable, or subject to garnishment, attachment, or levy of execution.

Whenever the proof as to eligibility for payment submitted by an applicant either with or as a part of his initial application, or pursuant to request of the adjutant general thereafter, is not satisfactory to the adjutant general he shall reject said claim.

Upon rejection of any such claim the adjutant general shall cause to be mailed to each claimant whose claim has been thus rejected, a notice of such rejection and said notice shall inform such claimant of his right to file with the adjutant general a request for appeal to the court of claims of the state of Michigan within 6 months after the mailing of such notice by the adjutant general.

Such notice shall also inform such claimant that a failure to file a request for appeal to the Michigan court of claims within the stipulated time shall render the determination of the adjutant general final without any further right of claimant to appeal from same.

The claimant shall have 6 months from the mailing by the adjutant general of a notice of rejection of such claim in which to appeal to the court of claims from such rejection, and upon failure by the claimant to file with the adjutant general a request for appeal to the court of claims within such 6 months' period the determination by the adjutant general in such claim shall be final.

Upon the filing of any such request for appeal to the Michigan court of claims, and in such event only, the adjutant general shall forthwith certify the entire record of such claim to the court of claims and shall furnish to said court any additional information in or which may thereafter come into his possession or which may be requested by said court.

This amendatory act shall not affect any claims in which the court of claims pursuant to Act No. 47 and Act No. 48 of the Public Acts of the First Extra Session of 1948, shall have sent the registered mail notice to claimant as provided in section 23a of Act No. 47 of the Public Acts of the First Extra Session of 1948, but such claims shall be carried to final conclusion by the court of claims as provided in said Act No. 47 and Act No. 48 of the Public Acts of the First Extra Session of 1948.

Such claims as may have been certified to the court of claims prior to the effective date of this act, and in which no registered mail notice has been sent by the court of

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claims to the claimant shall be returned to the adjutant general for processing in accordance with the provisions of this amendatory act.

Upon receipt of an order by the court of claims that a claimant whose claim has been so certified is entitled to payment and upon said order becoming final the claim shall be paid in the same manner as provided herein.

All expenses of the court of claims accruing by reason of this section and section 23a of Act No. 135 of the Public Acts of 1939, as amended, being section 691.123a of the Compiled Laws of 1948, shall be paid as expenses of administration under section 8 of this act.

In each case in which the court of claims shall enter its order allowing or denying such claim, and upon such order becoming final, the files and records therein shall be returned by the court of claims to the adjutant general to be retained by him as permanent records.

Wherever the court of claims has denied the claimant's right to military pay prior to the effective date of this amendatory act, and such claimant may be entitled to military pay under the provisions of amendments to section 2 of Act No. 12 of the Public Acts of 1947, said claimant shall be entitled to re-apply to the adjutant general by March 19, 1950.

The adjutant general shall review all cases denied by the court of claims prior to the effective date of this amendatory act and shall notify all claimants affected by the amendments to section 2 of Act No. 12 of the Public Acts of 1947 of their right to reapply.

HISTORY: Am. 1948, 1st Ex. Ses., p. 115, Act 48, Imd. Eff. May 24;—CL 1948, 35.926;—Am. 1949, p. 377, Act 270, Imd. Eff. Jun. 7;—Am. 1957, p. 196, Act 171, Imd. Eff. May 29.

35.927 Administration of act; authority of state administrative board; claims.

Sec. 7. The state administrative board shall have general charge and supervision over the administration of the provisions of this act; shall approve the forms of applications; shall direct the adjutant general in relation to his duties hereunder; shall fix the number of persons employed in carrying out the provisions of this act and make all necessary rules in relation to any matter prescribed by this act. The board shall have authority to determine any claim in any case where a doubt arises as to the eligibility of an applicant to receive payment and the decision of the board in such case shall be final, subject to the right of review by a court of competent jurisdiction: Provided, That the power of the board to so determine any claim shall be and is suspended until July 1, 1951.

HISTORY: Am. 1948, Ex. Ses., p. 115, Act 48, Imd. Eff. May 24;—CL 1948, 35.927.

35.928 Administration of act; expenses, payment; appropriation.

Sec. 8. The expenses of the administration of this act and of Act No. 4 of the Public Acts of 1947, subsequent to the issuance of the bonds therein authorized, shall be paid from the veterans' military pay fund in accordance with the accounting laws of the state. For this purpose there is hereby appropriated a sum of not to exceed $1,500,000 from said veterans' military pay fund which shall be released by the state administrative board at such time and in amounts determined and recommended by the budget director, to the adjutant general, the auditor general and the state treasurer as required to carry out the provisions of this act and Act No. 4 of the Public Acts of 1947, subsequent to the issuance of the bonds therein authorized.

HISTORY: CL 1948, 35.928.

35.929 Application for payment; wilful falsification, penalty.

Sec. 9. Any person who shall wilfully make a false statement in the application for benefits under the provisions of this act shall be guilty of a felony, and upon conviction

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thereof may be punished by confinement in southern Michigan prison for a period of not less than 1 year or more than 3 years.

HISTORY: CL 1948, 35.929.

35.930 Payments deemed gifts.

Sec. 10. The payments herein provided for are declared by the legislature to be in the form of gifts or gratuities and shall not be deemed to be pay for services rendered.

HISTORY: CL 1948, 35.930.

35.931 Application for payment; filing, time limit, exceptions.

Sec. 11. No application or applications for benefits under the provisions of this act shall be filed or received, with the exception of applications under section 4 of this act, on and after December 31, 1954: Provided, That a veteran who is in military service at time of application or in a military, veterans' or state hospital at time of application will be permitted to file for benefits under the provisions of this act until June 1, 1956: Provided further, That a veteran who failed to receive eligibility determination for benefits of type other than the state of Michigan until after expiration of date for filing for benefits under the provisions of Act No. 12 of the Public Acts of 1947 shall be permitted to file for benefits under the provisions of this amendatory act until June 1, 1956.

HISTORY: CL 1948, 35.931;—Am. 1949, p. 13, Act 14, Imd. Eff. Mar. 17;—Am. 1951, p. 156, Act 124, Imd. Eff. Jun. 1;—Am. 1953, p. 138, Act 134, Imd. Eff. May 29;—Am. 1954, p. 410, Act 172, Eff. Aug. 13.

35.932 Aid from Congress; acceptance by state administrative board.

Sec. 12. In case the Congress of the United States shall adopt measures providing for financial aid or other assistance available to the state of Michigan in the payment of the bonus under the provisions of this act, the state administrative board is hereby authorized on behalf of the state of Michigan to accept any such financial or other assistance.

HISTORY: CL 1948, 35.932.

35.951, 35.961 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Sections provided relief for Spanish war veterans.

Act 8, 1955, p. 5; Imd. Eff. Mar. 7.

AN ACT to provide for payments to persons who served in the armed forces of the United States between June 27, 1950, and December 31, 1953, and to beneficiaries of such persons; to prescribe the power and duties of the state administrative board and state officers with respect thereto; to provide for acceptance of financial and other assistance from the federal government; to create the Korean veterans' military pay fund in the state treasury; to make certain appropriations; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

35.971 Korean veterans' military pay fund act of 1955; short title.

Sec. 1. This act shall be known and may be cited as the "Korean veterans' military pay fund act of 1955."

HISTORY: New 1955, p. 5, Act 8, Imd. Eff. Mar. 7.

35.972 Korean veterans' military pay fund act; definitions.

Sec. 2. As used in this act:

(a) "Period of service" means the period of time between June 27, 1950, and December 31, 1953.

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(b) "Veteran" means each man or woman who served honorably and faithfully for more than 60 days in the military, naval, marine or coast guard forces of the United States, at any time during the period of service, and who was a resident of the state of Michigan at the time of entering such service or on June 27, 1950, and for at least 6 months immediately prior thereto, and who has not applied for and received similar payments from another state.

(c) "Beneficiary" means, in relation to a deceased veteran, the surviving husband or wife, child or children, or the surviving mother, father, person standing in loco parentis, brothers and sisters, in the order named, which determination may be made by the probate court of the county of residence of the veteran at the time of death on petition of the adjutant general.

(d) "Honorable and faithful service" shall be such service as is evidenced by (1) an honorable discharge, or (2) in the case of an officer, a certificate of service, or (3) in the case of a veteran who has not been discharged, a certificate from appropriate service authority that his service was honorable and faithful. Time lost while absent without leave, in desertion, in confinement while undergoing the sentence of a court martial or time lost while in a non-duty status because of disease contracted through the veterans' own misconduct shall not be construed as faithful service.

(e) "Foreign service" means military service by a veteran during the period of service anywhere outside of any state of the United States and the District of Columbia.

(f) "Domestic service" means military service by a veteran during the period of service in any state of the United States and the District of Columbia.

(g) "Adjutant general" means the adjutant general of the state of Michigan.

(h) "Board" means the state administrative board.

(i) "Resident" means a person who has acquired a status as follows:

(1) Was born in and lived in the state of Michigan until entrance into the armed forces of the United States; or

(2) Was born in, but was temporarily living outside the state of Michigan, not having abandoned residence therein prior to entrance into the armed forces of the United States; or

(3) Was born elsewhere but had resided within the state of Michigan for at least 6 months immediately prior to entrance into military service, or June 27, 1950, and had prior to or during such 6 months' period

(a) registered for voting in the state of Michigan, or

(b) being an unemancipated minor, who shall not be emancipated as defined in section 27 of chapter 2 of Act No. 146 of the Public Acts of 1925, being section 402.27 of the Compiled Laws of 1948, during such period of residence had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in sub-paragraphs (1), (2), (3) (a), (3) (b) or (3) (c) of this subsection (i), or

(c) If not registered for voting in the state of Michigan, was not registered for voting in another state: Provided, That applications filed under this act which have been rejected by the adjutant general because of noncompliance with the foregoing requirement shall be eligible for allowance despite such noncompliance if the applicant had not voted in another state within 6 months prior to entering the service, or June 27, 1950, and had resided in the state of Michigan for at least 6 months immediately prior to entrance into the armed forces of the United States, or June 27, 1950; or

(4) No information appearing on the discharge of the veteran which shows "permanent address for mailing purposes", "address from which employment will be sought", and "home address at time of entry into service", in another state, shall

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necessarily be construed to mean that the veteran thereby intended to abandon his residence in the state of Michigan for the purpose of this act.

(5)In all other cases than those outlined under sub-paragraphs (1), (2) and (3) of this subsection (i) complies with the residence requirements set forth in section 26 of article 10 of the state constitution, in accordance with the rules and regulations of the board.

HISTORY: New 1955, p. 6, Act 8, Imd. Eff. Mar. 7;—Am. 1956, p. 303, Act 160, Imd. Eff. Apr. 16.

35.973 Payment to veteran; maximum for domestic and foreign service.

Sec. 3. Each veteran shall be paid for domestic service $10.00 for each month or major fraction thereof and shall be paid for foreign service $15.00 for each month or major fraction thereof. If the veteran be deceased, payment shall be made to the beneficiary. No payment made under this act on account of any one veteran shall exceed $500.00.

HISTORY: New 1955, p. 7, Act 8, Imd. Eff. Mar. 7.

35.974 Payment to beneficiary of deceased veteran; maximum.

Sec. 4. There shall be paid on application to the surviving husband or wife, child or children, or to the surviving mother, father, person standing in loco parentis, brothers, sisters, in the order named, of any person who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, between June 27, 1950, and December 31, 1953, and who died during such term of service from service connected causes or who died subsequent to separation from military service without making application for benefits under this act, and who served honorably and faithfully therein during said period, who was a resident of this state at the time of entering such service or on June 27, 1950, and for a period of at least 6 months immediately prior to entering therein, and whose service continued for more than 60 days during said period, the sum of $10.00 for each month, or major fraction thereof, of service during said period in any state of the United States, and the District of Columbia, and the sum of $15.00 for each month, or major fraction thereof, of service during said period outside any state of the United States, and the District of Columbia, but not more than a total of $500.00 on account of any individual veteran.

HISTORY: New 1955, p. 7, Act 8, Imd. Eff. Mar. 7;—Am. 1956, p. 304, Act 160, Imd. Eff. Apr. 16.

35.975 Payment to beneficiary of deceased veteran; death from service connected cause.

Sec. 5. If the veteran be deceased from service connected causes, the surviving husband or wife, child or children, or the surviving dependent mother, dependent father, dependent person standing in loco parentis, dependent brothers and dependent sisters, in the order named, shall be entitled to receive the difference between that amount which has been received by the veteran or his beneficiary under section 3, and the sum of $500.00, and in the event no payment has been made pursuant to section 25 of article 10, under the provisions of section 1a of Act No. 4 of the Public Acts of 1947, being section 35.901a of the Compiled Laws of 1948, or under section 3 of this act, the entire sum of $500.00 shall be paid to the person entitled thereto.

HISTORY: New 1955, p. 7, Act 8, Imd. Eff. Mar. 7.

35.976 Application for payment by veteran or beneficiary; requirements, endorsement on evidence of service.

Sec. 6. Each veteran or his beneficiary entitled to payment shall make application to the adjutant general upon such form as may be prescribed by him: Provided, That if the veteran be incompetent or his beneficiary be incompetent or a minor, application shall be made by his guardian. Each application shall be accompanied by a certified copy of honorable discharge as defined in section 2, or by such evidence of honest and faithful service during the period of service as shall be prescribed by said adjutant gen-

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eral. Each application shall be subscribed and sworn to by the applicant before witnesses in such manner as shall be prescribed by the adjutant general: Provided, That the adjutant general shall provide by regulation for an endorsement on the evidence of service required in section 2 (d) that application for payment has been made.

HISTORY: New 1955, p. 7, Act 8, Imd. Eff. Mar. 7.

35.977 Korean veterans' military pay fund; creation, payment procedure; nonassignability of claims; rejection of claim, notice, appeal.

Sec. 7. Upon submission to him of satisfactory proof that the applicant is entitled to payment under this act, the adjutant general shall compute the amount of payment due the applicant, make a record thereof, and transmit the claim for payment directly to the auditor general for payment upon such form as the auditor general shall prescribe. Payment shall be made from the Korean veterans' military pay fund of 1955, which is hereby created as a special fund in the state treasury to consist of all moneys received from the issuance and sale of bonds pursuant to section 26 of article 10 of the constitution, and which moneys are hereby appropriated for such purpose and for the administration of this act: Provided, That no claim for payment under this act shall be assignable, or subject to garnishment, attachment or levy of execution.

Whenever the proof as to eligibility for payment submitted by an applicant either with or as a part of his initial application, or pursuant to request of the adjutant general thereafter, is not satisfactory to the adjutant general, he shall reject said claim.

Upon rejection of any such claim the adjutant general shall cause to be mailed to each claimant whose claim has been thus rejected, a notice of such rejection and said notice shall inform such claimant of his right to file with the adjutant general a request for appeal to the court of claims of the state of Michigan within 6 months after the mailing of such notice by the adjutant general.

Such notice shall also inform such claimant that a failure to file a request for appeal to the Michigan court of claims within the stipulated time shall render the determination of the adjutant general final without any further right of claimant to appeal from same.

The claimant shall have 6 months from the mailing by the adjutant general of a notice of rejection of such claim in which to appeal to the court of claims from such rejection, and upon failure by the claimant to file with the adjutant general a request for appeal to the court of claims within such 6 months' period the determination by the adjutant general in such claim shall be final.

Upon the filing of any such request for appeal to the Michigan court of claims, and in such event only, the adjutant general shall forthwith certify the entire record of such claim to the court of claims and shall furnish to said court any additional information in or which may thereafter come into his possession or which may be requested by said court.

Upon receipt of an order by the court of claims that a claimant whose claim has been so certified as in this act provided is entitled to payment and upon said order becoming final the claim shall be paid in the same manner as provided herein.

In each case in which the court of claims shall enter its order allowing or denying such claim, and upon such order becoming final, the files and records therein shall be returned by the court of claims to the adjutant general, to be retained by him as permanent records.

HISTORY: New 1955, p. 7, Act 8, Imd. Eff. Mar. 7.

35.978 Administration of act; authority of state administrative board.

Sec. 8. The state administrative board shall have general charge and supervision over the administration of the provisions of this act; shall direct the adjutant general in relation to his duties hereunder; shall fix the number of persons employed in carrying

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out the provisions of this act; and shall make all necessary rules in relation to any matter prescribed by this act.

HISTORY: New 1955, p. 8, Act 8, Imd. Eff. Mar. 7.

35.979 Administration of act; expenses, payment, appropriation.

Sec. 9. The expenses of the administration of this act subsequent to the issuance of the bonds therein authorized, shall be paid from the Korean veterans' military pay fund of 1955, in accordance wtih [sic] the accounting laws of the state. For this purpose there is hereby appropriated a sum of not to exceed $655,000.00 from said Korean veterans' military pay fund of 1955, which shall be released by the state administrative board at such time and in amounts determined and recommended by the controller of the department of administration, to the adjutant general, the auditor general and the state treasurer as required to carry out the provisions of this act, subsequent to the issuance of the bonds therein authorized. Any necessary expense incurred by the adjutant general prior to the effective date of this act in preparation for the prompt payment of veterans' claims in administering the purposes of this act shall be refunded to the military establishment, out of the appropriation hereby made, after an itemized claim therefor shall have been submitted to and approved by the state administrative board.

HISTORY: New 1955, p. 8, Act 8, Imd. Eff. Mar. 7;—Am. 1957, p. 175, Act 154, Imd. Eff. May 29.

35.979a Korean veterans' military pay fund; transfer of balance to general fund.

Sec. 9a. Notwithstanding any other provisions of this act and on the effective date of this amendatory act, any balance remaining in the Korean veterans' military pay fund shall be transferred to the general fund and all future payments of claims and administration expenses shall be made from the general fund in accordance with the accounting laws of the state. The amount necessary for such payments is hereby appropriated annually from the general fund.

HISTORY: Add. 1958, p. 12, Act 11, Imd. Eff. Mar. 14.

35.980 Application for payment; wilful falsification, penalty.

Sec. 10. Any person who shall wilfully make a false statement in the application for benefits under the provisions of this act shall be guilty of a felony, and upon conviction thereof may be punished by confinement in the state prison of southern Michigan at Jackson for a period of not less than 1 year or more than 3 years.

HISTORY: New 1955, p. 9, Act 8, Imd. Eff. Mar. 7.

35.981 Payments deemed gifts.

Sec. 11. The payments herein provided for are declared by the legislature to be in the form of gifts or gratuities and shall not be deemed to be pay for services rendered.

HISTORY: New 1955, p. 9, Act 8, Imd. Eff. Mar. 7.

35.982 Application for payment; filing, time limit, exceptions.

Sec. 12. No application for benefits under the provisions of this act shall be filed or received, with the exception of applications under section 5 of this act, on and after March 7, 1958, except that applications originally filed prior to March 7, 1958, which were not processed or which were denied by the adjutant general based upon a file from which material evidence had been lost or misfiled through no fault of the applicant and no appeal has been made, may be refiled and processed if filed before March 7, 1962.

HISTORY: New 1955, p. 9, Act 8, Imd. Eff. Mar. 7;—Am. 1957, p. 38, Act 32, Imd. Eff. May 7;—Am. 1961, p. 367, Act 216, Eff. Sep. 8.

35.983 Eligibility of World War II veterans.

Sec. 13. Any person making claim for and receiving benefits provided by Act No. 12 of the Public Acts of 1947, as amended, being sections 35.921 to 35.932, inclusive, of

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the Compiled Laws of 1948, who may be eligible for benefits under the Korean veterans' military pay act of 1955, shall not be disqualified from receiving benefits under the Korean veterans' military pay act of 1955 by reason of accepting benefit payment as provided by said Act No. 12 of the Public Acts of 1947, as amended.

HISTORY: New 1955, p. 9, Act 8, Imd. Eff. Mar. 7.

35.984 Aid from Congress; acceptance by state administrative board.

Sec. 14. In case the congress of the United States shall adopt measures providing for financial aid or other assistance available to the state of Michigan in the payment of the bonus under the provisions of this act, the state administrative board is hereby authorized on behalf of the state of Michigan to accept any such financial or other assistance.

HISTORY: New 1955, p. 9, Act 8, Imd. Eff. Mar. 7.

Act 71, 1955, p. 115; Imd. Eff. May 24.

AN ACT to create a Korean veterans bond redemption fund; to provide for the payment of the principal and interest on certain serial obligations; and to make appropriations therefor.

The People of the State of Michigan enact:

35.991 Korean veterans' bond redemption fund; creation.

Sec. 1. There is hereby created in the state treasury a special fund to be known as "the Korean veterans bond redemption fund" in which shall be deposited all sums of money appropriated and authorized to be deposited therein by the legislature.

HISTORY: New 1955, p. 115, Act 71, Imd. Eff. May 24.

35.992 Bond redemption fund; continuing appropriation for payment of principal and interest.

Sec. 2. For the prompt payment of the principal and interest upon serial bonds issued under authority of section 26 of article 10 of the constitution of the state of Michigan, there is hereby appropriated to the Korean veterans bond redemption fund each year during the life of these bonds, from the general fund, the sum of the principal and interest due and payable.

HISTORY: New 1955, p. 115, Act 71, Imd. Eff. May 24.

35.993 Bond redemption fund; appropriation for expenses.

Sec. 3. For the purpose of paying the expenses incurred in connection with principal and interest payments, there is hereby appropriated to the Korean veterans bond redemption fund from the Korean veterans military pay fund of 1955, the sum of $65,000.00. Said appropriation shall be released by the state administrative board at said time and in amounts determined and recommended by the controller, department of administration, to the state treasurer as required to carry out the provisions of this act.

HISTORY: New 1955, p. 115, Act 71, Imd. Eff. May 24.

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CHAPTER 36. MICHIGAN VETERANS' FACILITY

MICHIGAN VETERANS' FACILITY

Act 152 of 1885

36.1 State Veterans' Facility of Michigan; establishment.

36.2 Veterans' facility board of managers; members, appointment, terms; governor as chairman.
Veterans' readjustment center at University of Michigan, management.

36.6 Board of managers; compensation and expenses.

36.7 Board of managers; annual meeting for election of officers.

36.8 Board of managers; quarterly meeting for formulation of governing rules and regulations.

36.9 Board of managers; inspection of similar institutions, expenses.

36.10 Commandant; appointment, eligibility, powers and duties.

36.11 Veterans' facility; eligibility for admission; maintenance charges of members.

36.11a Gifts to veterans' facility; acceptance by board of managers.

36.11b Gifts; disposition.

36.11c Property of member; board may receive and hold in trust.

36.12 Method of drawing and accounting for money from state treasury prescribed.

DORMITORY FOR EX-NURSES AND DEPENDENTS

Act 212 of 1893

36.21-36.28 Repealed.

WIDOWS, WIVES AND MOTHERS

Act 15 of 1921

36.31 Veterans' facility; eligibility of widows, wives and mothers for admission.
Contributions for maintenance.
Admission of mothers.

36.32 Construction of act.

DISCIPLINE AND GOVERNMENT

Act 90 of 1895

36.41 Repealed.

36.42 Veterans' facility; restraint of disorderly persons, authority of commandant.

36.43 Report of commandant on restraint of disorderly members to board of managers.

GUARDIAN FOR MEMBERS

Act 54 of 1901

36.51 Appointment of commandant as guardian of member.

36.52 Commandant as guardian; execution of bond.

36.53 Appointment of commandant as guardian; record.

36.54 Commandant as guardian; compensation, expenses.

36.55 Commandant as guardian; delivery of trust and property to successor.

POST AND POSTHUMOUS FUNDS

Act 313 of 1905

36.61 Post fund and posthumous fund; expenditure by board of managers.

Act 152, 1885, p. 172; Imd. Eff. Jun. 5.

AN ACT to authorize the establishment of a facility for former members of the armed forces of the United States in the state of Michigan, and to make the veterans' readjustment center an integral part of the Michigan veterans' facility and to provide for the management and administration of the veterans' readjustment center. Am. 1952, p. 139, Act 123, Eff. Sep. 18;—Am. 1958, p. 156, Act 142, Imd. Eff. Apr. 18.

The People of the State of Michigan enact:

36.1 State Veterans' Facility of Michigan; establishment.

Sec. 1. That there shall be established in this state an institution under the name and style of the "State Veterans' Facility of Michigan," and whenever reference is made in the laws of this state to the "Michigan Soldiers' Home," reference shall be deemed to be made to the "Michigan Veterans' Facility."

HISTORY: How. 1984a;—CL 1897, 2055;—CL 1915, 1667;—CL 1929, 782;—Am. 1945, p. 89, Act 94, Eff. Sept. 6;—CL 1948, 36.1.
CITED IN OTHER SECTIONS: Sections 36.1 to 36.12 are cited in § 16.528.

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36.2 Veterans' facility board of managers; members, appointment, terms; governor as chairman.

Sec. 2. The general supervision and government of said soldiers' home shall be vested in a board of managers to consist of 7 members, one of whom shall be a United Spanish war veteran, who shall be appointed by the governor by and with the advice and consent of the senate, the members of which board shall each hold office for the term of 6 years from the first day of March of the year in which appointed, and until their successors shall be appointed and qualified. There shall be 3 members of said board appointed as of March 1, 1955, including the United Spanish war veteran provided for herein, 2 members on March 1, 1957, and 2 members on March 1, 1959, whose term of office shall continue for 6 years or until their successors are appointed and qualified, and reappointments shall be made in the order given above. The governor shall be a member of said board ex officio, and shall be chairman thereof.

Veterans' readjustment center at University of Michigan, management.

The veterans' readjustment center, located on the campus of the university of Michigan and being managed and administered by the regents of the university, is declared to be an integral part of the Michigan veterans' facility. The board of managers of the veterans' facility as successors to the veterans' readjustment center advisory board shall be vested with the rights, powers and duties under the contractual arrangements heretofore entered into between the regents of the university of Michigan and the veterans' readjustment center advisory board. The board of managers of the veterans' facility is hereby authorized to enter into managerial and administrative contracts with the regents of the University of Michigan relative to the operating of the veterans' readjustment center.

HISTORY: How. 1984b;—CL 1897, 2056;—CL 1915, 1668;—CL 1929, 783;—CL 1948, 36.2;—Am. 1955, p. 298, Act 196, Imd. Eff. Jun. 17;—Am. 1958, p. 156, Act 142, Imd. Eff. Apr. 18.

Secs. 3-5.

HISTORY: How. 1984c-e;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. These sections provide for the selection of a site and the erection of buildings.

36.6 Board of managers; compensation and expenses.

Sec. 6. Each of the members of the board shall be entitled to receive $20.00 per day for each day he shall be engaged with the business of the board, not to exceed 40 days per annum, and his actual and necessary expenses, such compensation and expenses to be paid from the appropriations to the facility in accordance with the accounting laws of the state.

HISTORY: How. 1984f;—Am. 1889, p. 106, Act 103, Imd. Eff. May 21;—CL 1897, 2057;—CL 1915, 1669;—Am. 1925, p. 382, Act 265, Imd. Eff. May 13;—CL 1929, 784;—CL 1948, 36.6;—Am. 1952, p. 140, Act 123, Eff. Sep. 18;—Am. 1963, p. 120, Act 101, Eff. Sep. 6.

36.7 Board of managers; annual meeting for election of officers.

Sec. 7. It shall be the duty of the members of the board of managers to meet annually at the facility on the second Wednesday in March of each year, and at said annual meeting they shall elect of their own body, a chairman, a chairman pro-tem, a secretary, a treasurer and a clerk, who shall hold their office for 1 year and until their successors shall be elected and qualified: Provided, That in lieu of electing a treasurer and a clerk, the board may appoint the adjutant of the facility to perform the duties of the treasurer and the clerk and such other duties as may be prescribed by the board.

HISTORY: How. 1984g;—CL 1897, 2058;—CL 1915, 1670;—CL 1929, 785;—CL 1948, 36.7;—Am. 1952, p. 140, Act 123, Eff. Sep. 18.

36.8 Board of managers; quarterly meeting for formulation of governing rules and regulations.

Sec. 8. It shall be the duty of the board of managers to meet once in every 3 months on their own adjournment, and oftener if they shall deem it advisable, at which meeting they shall prepare and carefully digest and mature a system of government for said home, embracing all such rules, regulations, and general laws as they may deem neces-

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sary for preserving order, for enforcing discipline, for preserving the health of such disabled soldiers, sailors or marines as may be received at this home.

HISTORY: How. 1984h;—CL 1897, 2059;—CL 1915, 1671;—CL 1929, 786;—CL 1948, 36.8.

36.9 Board of managers; inspection of similar institutions, expenses.

Sec. 9. For the purpose of maturing said system of government and discipline, it shall be competent for said board to authorize 1 of its members to visit similar institutions now in operation and by personal inspection and investigation to acquire an insight into the principles and practical workings of said similar homes for the information and benefit of said board; the expense actually and necessarily incurred in any such visit and investigation to be charged against the appropriation hereinbefore made.

HISTORY: How. 1984i;—CL 1897, 2060;—CL 1915, 1672;—CL 1929, 787;—CL 1948, 36.9.

36.10 Commandant; appointment, eligibility, powers and duties.

Sec. 10. The board of managers shall appoint a commandant for the home, who shall be an ex-officer, soldier, sailor, or marine, whose salary shall be such amount as shall be appropriated by the legislature, and who shall nominate, for the action of the board of managers, all necessary subordinate officers, who shall also be ex-officers, soldiers, sailors, or marines, who may be dismissed by the commandant for inefficiency or misconduct. In case of every removal, a detailed statement of the case shall be reported to the board of managers by the commandant. No member or former member of the board of managers shall be eligible to election or appointment as commandant of the facility until the expiration of at least 1 year from the date of the end of his term as member of the board of managers or the date of his resignation as such member.

HISTORY: How. 1984j;—CL 1897, 2061;—CL 1915, 1673;—CL 1929, 788;—CL 1948, 36.10;—Am. 1955, p. 296, Act 196, Imd. Eff. Jun. 17;—Am. 1958, p. 215, Act 186, Eff. Sep. 13.

36.11 Veterans' facility; eligibility for admission; maintenance charges of members.

Sec. 11. All members of the armed forces of the United States who have been honorably discharged therefrom who have served therein not less than 90 days in the war of the Rebellion, in the Mexican war, the Indian wars, the Spanish-American war, the war in the Philippines, the World War, the second World War, or any other war, campaign or expedition in which the armed forces of the United States have been, are, or may hereafter be, participants, and who are disabled by disease, wounds or otherwise, and who have no adequate means of support, and by reason of such disability are incapable of earning their living and who would be otherwise dependent upon public or private charity, shall be entitled to be admitted to said facility, subject to such rules and regulations as shall be adopted by the board of managers to govern the admission of applicants to the facility. Former members of the armed forces of the United States, otherwise qualified, who served less than 90 days and who were honorably discharged from such service, and who, as a result of such service, acquired a service-connected disability or disease, may be admitted. No applicant shall be admitted to the facility unless he served in a Michigan regiment or has been accredited to the state of Michigan or he has resided in the state of Michigan for at least 5 consecutive years next preceding the date of his application for admission to the facility. Nothing herein shall be so construed as to prevent the board of managers from admitting to membership in the facility any applicant otherwise qualified, but who has adequate means of support and is not dependent upon public or private charity, provided that such applicant, as a condition of admission, pay to the board of managers in advance, or at such times as may be fixed by the board of managers, for the use and benefit of the state of Michigan such sum for his support as the board of managers may determine to be proper, in accordance with the following requirements: The board of managers shall annually de-

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termine the per diem expense of maintenance of members in the facility and shall require any member who has adequate means of support or sufficient property or income, to pay the board of managers in full for such expenses of maintenance. All members in the facility shall be charged in the first instance with such maintenance, which shall be collected either in whole or in part in accordance with the foregoing requirements if the member has sufficient property or income, but otherwise the board of managers may remit such per diem charge either in whole or in part. All maintenance charges as determined by the board of managers shall be paid to the adjutant of the facility in advance not later than the fifth day of each month. Failure to comply with any such condition shall be cause for dismissal from the facility. Moneys thus received shall be turned over to the state treasury and credited to the general fund. The board of managers of the facility is also hereby authorized and empowered to make a condition for admission to the facility that all applicants shall assign to the board of managers any balance of money accumulated while a member of the facility, or due to such applicant or on deposit with any bank, trust company, corporation or with any individual, at the time of the death of such applicant. All such sums shall be paid to the wife, minor children or dependent mother or father, in the order named, and, if no such relative shall be found within a period of 2 years, or if no claim therefor has been made within a period of 2 years, the balance of any such money shall be paid into a fund in the hands of the board of managers of the facility to be expended under the direction of the board of managers to improve the service of the facility.

HISTORY: How. 1984k;—Am. 1891, p. 44, Act 44, Imd. Eff. Apr. 29;—CL 1897, 2062;—Am. 1899, p. 98, Act 62, Imd. Eff. May 2;—Am. 1901, p. 39, Act 25, Imd. Eff. March 26;—Am. 1907, Ex. Ses., p. 8, Act 2, Imd. Eff. Oct. 24;—Am. 1915, p. 76, Act 49, Eff. Aug. 24;—CL 1915, 1674;—Am. 1919, p. 426, Act 238, Eff. Aug. 14;—CL 1929, 789;—Am. 1931, p. 482, Act 291, Imd. Eff. June 8;—Am. 1933, p. 360, Act 231, Imd. Eff. July 6;—Am. 1934, 1st Ex. Ses., p. 90, Act 17, Imd. Eff. March 28;—Am. 1945, p. 89, Act 94, Eff. Sept. 6;—CL 1948, 36.11;—Am. 1952, p. 140, Act 123, Eff. Sep. 18;—Am. 1958, p. 215, Act 186, Eff. Sep. 13.

36.11a Gifts to veterans' facility; acceptance by board of managers.

Sec. 11a. The board of managers shall have power and authority to accept for the use and benefit of the state of Michigan from any person, who was, is or may hereafter become a member of the facility, any gift of real estate or money. Gifts thus received shall be the property of the state of Michigan.

HISTORY: Add. 1915, p. 76, Act 49, Eff. Aug. 24;—CL 1915, 1675;—CL 1929, 790;—CL 1948, 36.11a;—Am. 1952, p. 141, Act 123, Eff. Sep. 18.

36.11b Gifts; disposition.

Sec. 11b. All gifts received by the board of managers other than as provided in section 11a hereof and specifically providing that the same is not for the use and benefit of the state of Michigan shall be paid into a fund in the hands of the board of managers of the facility, to be expended under the direction of the board of managers to improve the service of the facility.

HISTORY: Add. 1915, p. 76, Act 49, Eff. Aug. 24;—CL 1915, 1676;—CL 1929, 791;—CL 1948, 36.11b;—Am. 1952, p. 141, Act 123, Eff. Sep. 18.

36.11c Property of member; board may receive and hold in trust.

Sec. 11c. The board of managers or any officer or employee duly authorized by them may receive money, property or effects belonging to any member of the facility and hold same in trust, to be disposed of as directed by such member. Any balance of such money, property or effects remaining in trust at the time of his discharge from the facility shall be accounted for and paid to such member.

HISTORY: Add. 1952, p. 141, Act 123, Eff. Sep. 18.

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36.12 Method of drawing and accounting for money from state treasury prescribed.

Sec. 12. The method of drawing money from the state treasury and accounting for the same, shall be similar to that now in force with other state institutions as prescribed by the general law.

HISTORY: How. 1984-1;—CL 1897, 2083;—CL 1915, 1677;—CL 1929, 792;—CL 1948, 36.12.
ACCOUNTING: See Compilers' § 17.6.

Sec. 13. (This was a tax clause section.)

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

36.21-36.28 Repealed. 1952, p. 141, Act 123, Eff. Sep. 18.

Sections provided for homes for certain civil war nurses and for qualified widows, wives and mothers of disabled veterans of specified wars.

Act 15, 1921, p. 23; Imd. Eff. Mar. 30.

AN ACT prescribing the qualifications for admission to the veterans' facility for the widows, wives and mothers of former members of the armed forces of the United States established by Act No. 212 of the Public Acts of 1893, as amended, being sections 36.21 to 36.28, inclusive, of the Compiled Laws of 1948, and repealing all acts and parts of acts inconsistent herewith. Am. 1952, p. 104, Act 94, Eff. Sep. 18.

The People of the State of Michigan enact:

36.31 Veterans' facility; eligibility of widows, wives and mothers for admission.

Sec. 1. Hereafter the qualifications for admission to residence in the veterans' facility for the widows and wives of any member of the armed forces of the United States who was honorably discharged therefrom, established by Act No. 212 of the Public Acts of 1893, as amended, being sections 36.21 to 36.28, inclusive, of the Compiled Laws of 1948, shall be as follows: The widow or wife or any member of the armed forces of the United States who was honorably discharged therefrom, who served in the Mexican war, or the war of the rebellion, [sic] or the Spanish-American war, or in the war in the Philippines, or in the world war [sic], or in the second world war [sic], or in any other war, campaign or expedition in which the armed forces of the United States have been, are, or may hereafter be, participants, for not less than 90 days shall be eligible for admission into the said veterans' facility: Provided, That in the case of the widows and wives, such wife or widow shall have been married to the veteran under whom she claims admission on or before his sixtieth birthday, and must be at least 60 years of age at the time of making such application for admission: Provided further, That no such wife or widow shall be eligible to admission to said veterans' facility unless she shall have lived in this state at least 5 consecutive years next preceding her application for admission. Any wife or widow of any of the veterans of any class hereinbefore mentioned who has lived in this state for at least 5 consecutive years next preceding her application for admission and who is disabled or unable to earn a livelihood may be eligible for admission notwithstanding the limitations otherwise provided for in this section: Provided further, That if any widow who may be eligible for membership under her first husband should re-marry, she will forfeit all rights to said veterans' facility and cannot again claim membership under her first husband.

Contributions for maintenance.

The board of managers of the veterans' facility is hereby authorized and empowered to prescribe as a condition for admission that all applicants be charged maintenance in the same manner as members who qualify for membership as former members of the armed forces of the United States, such maintenance to be paid to the adjutant of the

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veterans' facility in advance not later than the fifth day of each month. Failure to comply with any such condition shall be cause for dismissal from the said veterans' facility. Moneys thus received shall be turned over to the state treasury and credited to the general fund. The board of managers of the veterans' facility is also hereby authorized and empowered to make a condition for admission to the veterans' facility that all applicants shall assign to the board of managers any balance of money accumulated while a member of the facility or on deposit with any bank, trust company, corporation or individual at the time of the death of such applicant. All such sums shall be paid to the husband, minor children or dependent mother or father, in the order named, and, if no such relative shall be found within a period of 2 years, or if no claim therefor has been made within a period of 2 years, the balance of any such money shall be paid into a fund in the hands of the adjutant of the veterans' facility to be expended under the direction of the board of managers to improve the service of the veterans' facility.

Admission of mothers.

The mother of any member of the armed forces of the United States who was honorably discharged therefrom who served in any of the above wars may be admitted upon the approval of the board of managers, under such rules and conditions as the said board may prescribe.

HISTORY: CL 1929, 797;—Am. 1933, p. 361, Act 232, Imd. Eff. Jul. 6;—CL 1948, 36.31;—Am. 1952, p. 104, Act 94, Eff. Sep. 18;—Am. 1958, p. 217, Act 188, Eff. Sep. 13.

36.32 Construction of act.

Sec. 2. This act shall be construed as supplemental to any and all acts relating to the Michigan soldiers' home and to the home for the widows, wives and mothers established in connection therewith.

HISTORY: CL 1929, 798;—CL 1948, 36.32.

Sec. 3. (This was a repeal section.)

HISTORY: Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 90, 1895, p. 199; Imd. Eff. Apr. 24.

AN ACT to provide for the maintenance of discipline and for the better government of the Michigan Soldiers' Home and the Home of the Soldiers, Sailors and Marines, who served in the late civil war, their wives and mothers.

The People of the State of Michigan enact:

36.41 Repealed. 1955, p. 19, Act 19, Eff. Oct. 14.

Section designated officers for the Michigan soldier's home.

36.42 Veterans' facility; restraint of disorderly persons, authority of commandant.

Sec. 2. It shall be the duty of the commandant to provide some suitable place within said home wherein disobedient or otherwise disorderly persons can be restrained, and the said commandant or such other officer as may be temporarily in command may place in restraint any disobedient or otherwise disorderly person, until such person can be brought before the proper judicial tribunal, or until the necessity for such restraint shall have passed away: Provided, No person shall be so restrained more than 48 hours.

HISTORY: CL 1897, 2065;—CL 1915, 1679;—CL 1929, 801;—CL 1948, 36.42.

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36.43 Report of commandant on restraint of disorderly members to board of managers.

Sec. 3. It shall be the duty of such commandant to make a detailed written report of every case in which said restraint shall have been resorted to, to the board of managers of the home at the next meeting of the board after such action shall have been taken.

HISTORY: CL 1897, 2066;—CL 1915, 1680;—CL 1929, 802;—CL 1948, 36.43.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 1681;—CL 1929, 803;—Rep. 1945, p. 403, Act 287, Imd. Eff. May 25.

Act 54, 1901, p. 84; Imd. Eff. Apr. 9.

AN ACT to provide for the appointment of a guardian for members of the Michigan Soldiers' Home in certain cases.

The People of the State of Michigan enact:

36.51 Appointment of commandant as guardian of member.

Sec. 1. When, in the opinion of a majority of the board of managers of the Michigan soldiers' home, it is necessary that a guardian shall be appointed for any member of said home, the judge of probate of Kent county may, upon application being made to him, appoint the commandant of the Michigan soldiers' home to the office of said guardian.

HISTORY: CL 1915, 1686;—CL 1929, 804;—CL 1948, 36.51.

36.52 Commandant as guardian; execution of bond.

Sec. 2. The board of managers of said home shall require from the commandant a good and sufficient bond for the faithful performance of his duties as such guardian, and upon a satisfactory showing being made to the judge of probate that such bond has been executed, he shall not require a further bond to be given.

HISTORY: CL 1915, 1687;—CL 1929, 805;—CL 1948, 36.52.

36.53 Appointment of commandant as guardian; record.

Sec. 3. Whenever said board of managers deem it necessary that a guardian be appointed for any member of the Michigan soldiers' home the action taken in the matter by them shall be a matter of record upon the clerk's minutes of the proceedings of said board.

HISTORY: CL 1915, 1688;—CL 1929, 806;—CL 1948, 36.53.

36.54 Commandant as guardian; compensation, expenses.

Sec. 4. The commandant of said home shall receive no fees or allowances as compensation for his services as such guardian, but actual reasonable expenses incurred in the execution of his trust may be allowed.

HISTORY: CL 1915, 1689;—CL 1929, 807;—CL 1948, 36.54.

36.55 Commandant as guardian; delivery of trust and property to successor.

Sec. 5. When, from any cause, the commandant of said home shall cease to hold the office of commandant, his trust as guardian of any member of said home shall also cease, and he shall turn over to his successor in office all property in his hands belonging to his wards, members of the Michigan soldiers' home, and said successor shall, ex officio, become the guardian of said wards, subject to the same conditions as would be required had he been originally appointed guardian of said wards.

HISTORY: CL 1915, 1690;—CL 1929, 808;—CL 1948, 36.55.

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Act 313, 1905, p. 492; Imd. Eff. Jun. 17.

AN ACT to provide for the disposition of the money now or hereafter accumulated in the "post fund" and the "posthumous fund" of the Michigan soldiers' home.

The People of the State of Michigan enact:

36.61 Post fund and posthumous fund; expenditure by board of managers.

Sec. 1. The money on hand in the post fund and in the posthumous fund of the Michigan soldiers' home, and such money as may hereafter accumulate in said funds, may be expended by the board of managers of said home, in furnishing the new hospital, and for such other purposes for the benefit of the said home and the inmates thereof, as the said board of managers may, in its discretion, determine.

HISTORY: CL 1915, 1691;—CL 1929, 809;—CL 1948, 36.61.

See Compilers' §§ 36.11-36.12.

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CHAPTER 37. CIVIL RIGHTS

CIVIL RIGHTS COMMISSION

Act 45 of 1963 (2nd Ex. Ses.)

37.1 Civil rights commission; membership, appointment, terms, vacancies.
37.2 Civil rights commission members; compensation, travel and other expenses.
37.3 Civil rights commission; election of officers, quorum, vacancies, compensation and expenses.
37.4 Investigation of discrimination; procedure for enforcement of civil rights; orders of commission, appeal.
37.5 Civil rights commission; functions, powers and duties.
37.6 Michigan fair employment practices commission; abolition, transfer of powers, duties, records and appropriations.
37.7 Repeals.
37.8 Civil rights commission; expenditures, limitations.
37.9 Effective date of act.

EXECUTIVE ORDER

37.101 Executive reorganization order no. 1966-1; implementing the order of the state insurance commissioner to hospital service corporations requiring a non-discrimination agreement in contracts with participating hospitals.

Act 45, 1963 (2nd Ex. Ses.), p. 58; Eff. Jan. 1, 1964.

AN ACT to provide for the protection and enforcement of civil rights; for the organization and functions of the civil rights commission; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

37.1 Civil rights commission; membership, appointment, terms, vacancies.

Sec. 1. The civil rights commission established by the 1963 constitution shall consist of 8 members, not more than 4 of whom shall be of the same political party. The governor shall appoint the members by and with the advice and consent of the senate, for 4-year terms, not more than 2 of which shall expire in the same year, except that of the members first appointed, 2 each shall be appointed for terms of 1, 2, 3 and 4 years. A member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the unexpired term.

HISTORY: New 1963, 2nd Ex. Ses., p. 58, Act 45, Eff. Jan. 1, 1964.

37.2 Civil rights commission members; compensation, travel and other expenses.

Sec. 2. Members of the commission shall receive compensation of $25.00 per day for not to exceed 80 days annually plus actual and necessary travel and other expenses while on the business of the commission, in accordance with the provisions of the standard travel regulations issued by the department of administration pursuant to section 4 of Act No. 51 of the Public Acts of the First Extra Session of 1948, being section 18.4 of the Compiled Laws of 1948.

HISTORY: New 1963, 2nd Ex. Ses., p. 58, Act 45, Eff. Jan. 1, 1964.

37.3 Civil rights commission; election of officers, quorum, vacancies, compensation and expenses.

Sec. 3. The commission shall elect from its members such officers as it deems advisable. A majority of the members of the commission constitutes a quorum. A majority of the members is required to take action on all matters not of a ministerial nature, but a majority of a quorum may deal with ministerial matters. A vacancy in the commis-

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sion shall not impair the right of the remaining members to exercise all the powers of the commission. The members of the commission shall receive the compensation provided by law and shall be reimbursed for expenses actually and necessarily incurred by them in the performance of their duties.

HISTORY: New 1963, 2nd Ex. Ses., p. 58, Act 45, Eff. Jan. 1, 1964.

37 4 Investigation of discrimination; procedure for enforcement of civil rights; orders of commission, appeal.

Sec. 4. The commission shall investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by the constitution of this state, and shall secure the equal protection of such civil rights without such discrimination. A complaint alleging an unlawful discriminatory practice is subject to the same procedure as a complaint alleging an unfair employment practice under Act No. 251 of the Public Acts of 1955, being sections 423.301 to 423.311 of the Compiled Laws of 1948. Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court for the county of Ingham, the circuit court for the county wherein the alleged unlawful discriminatory practice is alleged to have occurred or where the person, firm or corporation against whom the complaint was filed, resides or has his principal place of business. If an appeal is not taken within 30 days after the service of an appealable order of the commission, the commission may obtain a decree for the enforcement of the order from the circuit court which would have had jurisdiction of the appeal.

HISTORY: New 1963, 2nd Ex. Ses., p. 58, Act 45, Eff. Jan. 1, 1964.

CITED IN OTHER SECTIONS: The above section is cited in § 564.415.

37.5 Civil rights commission; functions, powers and duties.

Sec. 5. The commission shall also have the following functions, powers and duties:

(a) To establish and maintain a principal office in the city of Lansing and such other offices within the state as approved by the legislature;

(b) To meet and function any place within the state;

(c) To appoint a staff director who shall carry on the administrative and ministerial functions of the commission when it is not in session and who shall act in such other capacities as the commission may direct;

(d) To appoint such employees as it deems advisable in accordance with civil service regulations and within limitations provided by law, and to prescribe their duties;

(e) To adopt, amend and repeal rules and regulations to carry out the provisions of this act, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948;

(f) To request the services of all state and local government departments and agencies;

(g) To receive, investigate and pass upon complaints alleging discrimination;

(h) To hold hearings, administer oaths, issue preliminary notices to witnesses to appear, compel through court authorization the attendance of witnesses and the production for examination of any books, papers or other records relating to matters under investigation or in question before the commission, take the testimony of any person under oath, and issue appropriate orders. The commission may make rules as to the issuance by individual commissioners of preliminary notices to appear.

(i) To promote and cooperate with such agencies as in its judgment will aid in effectuating the purposes of this act and the state constitution;

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(j) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination; and

(k) To submit each year to the governor and to the legislature a full written report of its activities and its recommendations.

HISTORY: New 1963, 2nd Ex. Ses., p. 59, Act 45, Eff. Jan. 1, 1964.

37.6 Michigan fair employment practices commission; abolition, transfer of powers, duties, records and appropriations.

Sec. 6. The Michigan fair employment practices commission is abolished and all of its functions, powers, duties, records, files, hearing docket and appropriations are transferred, as of January 1, 1964, to the civil rights commission. All pending court cases shall be disposed of as provided by the law under which they were initiated. Wherever reference is made in any law to the fair employment practices commission it is deemed to mean the civil rights commission.

HISTORY: New 1963, 2nd Ex. Ses., p. 59, Act 45, Eff. Jan. 1, 1964.

37.7 Repeals.

Sec. 7. Sections 5, 6, 8 and 10 of Act No. 251 of the Public Acts of 1955, being sections 423.305, 423.306, 423.308 and 423.310 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1963, 2nd Ex. Ses., p. 59, Act 45, Eff. Jan. 1, 1964.

37.8 Civil rights commission; expenditures, limitations.

Sec. 8. All salaries and expenses of the commission and its employees shall be paid out of appropriations made therefor in accordance with the accounting laws of the state, and shall not exceed such appropriations.

HISTORY: New 1963, 2nd Ex. Ses., p. 59, Act 45, Eff. Jan. 1, 1964.

37.9 Effective date of act.

Sec. 9. This act shall take effect on January 1, 1964.

HISTORY: New 1963, 2nd Ex. Ses., p. 60, Act 45, Eff. Jan. 1, 1964.

EXECUTIVE ORDER

37.101 Executive reorganization order no. 1966-1; implementing the order of the state insurance commissioner to hospital service corporations requiring a non-discrimination agreement in contracts with participating hospitals.

37.101

WHEREAS on September 21, 1966 David J. Dykhouse, Commissioner of Insurance of the State of Michigan did issue an order requiring the Michigan Hospital Service, a nonprofit hospital service corporation, created under Act 109 of the Public Acts of 1939, as amended, to include a non-discrimination agreement in its contracts with participating hospitals, and

WHEREAS under such order it is necessary that investigations and hearings be conducted on any complaints that may arise under the provisions of such order to the Michigan Hospital Service, and

WHEREAS the Michigan Civil Rights Commission is fully staffed and best able to conduct such investigations and hearings;

THEREFORE, I, GEORGE ROMNEY, Governor of the State of Michigan, pursuant to the authority vested in me by Article 5, Section 2, of the Constitution of 1963, in order to obtain the most efficient administration of said order of the Commissioner of Insurance, do hereby order and direct as follows:

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1. The function and responsibility for holding and conducting such investigations and hearings that may be necessary with respect to the complaints of subscribers arising out of the order of the Commissioner of Insurance, dated September 21, 1966, is hereby assigned to the Michigan Civil Rights Commission.
2. The function and responsibility for holding and conducting investigations and hearings as may be necessary with respect to complaints of subscribers arising out of the portion of contract between Michigan Hospital Service and any of its participating hospitals required by the above stated order by the Commissioner of Insurance is hereby assigned to the Michigan Civil Rights Commission.
3. All hearings authorized in numbers 1 and 2, above, shall be held in accordance with Article 5, Section 29, of the Constitution of 1963, and the established practices of the Michigan Civil Rights Commission.
4. The results of said investigations and hearings of the Michigan Civil Rights Commission, together with the findings made thereon with respect to any complaint which shall be made, shall be certified with the full record of such investigations and hearings by the Michigan Civil Rights Commission to the Commissioner of Insurance.
5. The responsibility, function, power, and discretion to act upon any findings which may be certified to him by the Michigan Civil Rights Commission does, and shall remain exclusively with the Commissioner of Insurance.
6. Nothing in this order shall in any respect derogate from the powers and duties, already exercised by the Michigan Civil Rights Commission under Michigan law.

HISTORY: New 1966, p. 676, ERO No. 1966-1, Eff. Dec. 5.

(The above was promulgated on September 21, 1966 as Executive Order No. 1966-8 and became effective December 5, 1966 by Executive Order No. 1966-8a.)

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CHAPTER 38. CIVIL SERVICE AND RETIREMENT

STATE EMPLOYES' RETIREMENT SYSTEM

Act 240 of 1943

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Act 136 of 1945

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INVESTMENT OF FUNDS OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS

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Act 240, 1943, p. 400; Eff. Jul. 30.

AN ACT to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection therewith and to require contributions thereto by state employees and by the state; and to provide penalties for the violation of certain provisions of this act. Am. 1957, p. 291, Act 232, Eff. Sep. 27.

The People of the State of Michigan enact:

38.1 State employees' retirement act; definitions.

Sec. 1. The following words and phrases as used in this act shall have the following meanings:

(a) "Retirement system" means the state employees' retirement system provided for in this act.

(b) "Retirement board" means the board provided for in this act to administer said retirement system.

(c) "State treasurer" means the treasurer of the state of Michigan.

(d) "Employer" or "state" for the purpose of this act means the state of Michigan.

(e) "Member" means any state employee included in the membership of the retirement system, as provided for in section 13 of this act.

(f) "Original member" means a person who became a member of this retirement system prior to January 1, 1945, or as provided in section 18 of this act.

(g) "New member" means a person who becomes a member of this retirement system on or after January 1, 1945.

(h) "Appointing authority" means the departmental officer charged with the responsibility of making appointments and handling all other personnel transactions affecting the employees in the agency which he represents.

(i) "Service" means service rendered the state by an elected or appointed state official or employee of the state. Credit for service shall be determined by appropriate rules and regulations of the retirement board, but in no case shall less than 10 days' service in a calendar month constitute a month of service; nor shall less than 6 months' service in a calendar year constitute 1 year of service; nor shall more than 1 year of service be creditable for all service in 1 calendar year. The retirement board shall not allow credit as service for any period of more than 1 month's duration, in any one calendar year, during which the employee was absent without pay: Provided, That full service credit shall be given for any period during which an employee is on leave of absence and is receiving workmen's compensation benefits as the result of a duty incurred disability.

(j) "Prior service" means all service as a state employee or as an appointed state officer, and as an elected or appointed state official, rendered prior to July 1, 1943.

(k) "Membership service" means all service rendered after July 1, 1943.

(l) "Credited service" means the sum of the prior service and membership service credited to a member's service account.

(m) "Retirant" means a person who has ceased to be a member of the retirement system by reason of his retirement therefrom with a pension or retirement allowance payable from the funds of the retirement system.

(n) "Beneficiary" or "disability beneficiary" means any person other than a retirant who is in receipt of a retirement allowance, pension, or other benefit provided by this act.

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(o) "Regular interest" means such rate or rates per annum, compounded annually, as the retirement board shall from time to time determine, but, for the purposes of employee refunds, the interest rate payable shall not exceed 4% per annum, compounded annually.

(p) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the employees' savings fund, together with regular interest thereon.

(q) "Compensation" means the remuneration paid a member on account of his services rendered to the state, except remuneration paid in lieu of accumulated sick leave. In cases where a member's remuneration is not all paid in money, the retirement board shall employ the maintenance-compensation schedules established from time to time by the civil service commission.

(r) "Final average compensation" means the average of those years of highest annual compensation received by a member during a period of 5 consecutive years of credited service; or if he has less than 5 years of credited service, then the average of the annual compensations received by him during his total years of credited service. For persons retired on and after the social security date, final average compensation shall mean the average of a member's compensation for 5 consecutive years within his years of service beginning the first day of January, April, July or October, in which his compensations were highest.

(s) "Final compensation" means a member's annual rate of compensation at the time he last terminates his employment with the state.

(t) "Annuity" means annual payments for life derived from the accumulated contributions of a member. All annuities shall be paid in equal monthly installments.

(u) "Pension" means annual payments for life payable from funds of the retirement system as provided in this act. All pensions shall be paid in equal monthly installments.

(v) "Retirement allowance" means the sum of the annuity and the pension.

(w) "Annuity reserve" means the present value, computed upon the basis of such mortality, and other tables, as shall be adopted by the retirement board, of all payments to be made on account of any annuity, or benefits in lieu of any annuity, granted to a member under the provisions of this act.

(x) "Pension reserve" means the present value, computed upon the basis of such mortality, and other tables, as shall be adopted by the retirement board, of all payments to be made on account of any pension, or benefits in lieu of any pension, granted to a member under the provisions of this act.

(y) "Employee" means any person who may become eligible for membership under this act, as set forth in section 13 hereof, if his compensation is paid in whole or in part by the state.

HISTORY: Am. 1944, 1st Ex. Sess., p. 37, Act 25, Imd. Eff. Feb. 29;—Am. 1947, p. 657, Act 351, Eff. Oct. 11;—Am. 1948, 1st Ex. Sess., p. 99, Act 41, Imd. Eff. May 10;—CL 1948, 38.1;—Am. 1951, p. 264, Act 200, Imd. Eff. Jun. 14;—Am. 1955, p. 356, Act 237, Imd. Eff. Jun. 21;—Am. 1958, p. 286, Act 207, Imd. Eff. May 5;—Am. 1962, p. 535, Act 233, Eff. Mar. 28, 1963;—Am. 1966, p. 162, Act 111, Eff. Nov. 15.

CITED IN OTHER SECTIONS: Sections 38.1 to 38.43 are cited in §§ 38.602, 38.807, 38.852, 38.907, 38.1011, 38.1102, 46.12a, 287.572a, 288.25a, and 330.613.

38.1a State employees' retirement act; short title.

Sec. 1a. This act shall be known and may be cited as the "state employees' retirement act".

HISTORY: Add. 1966, p. 164, Act 111, Eff. Nov. 15.

38.2 State employees' retirement system; creation; administration by retirement board.

Sec. 2. Administration. A state employes' retirement system is hereby created for the employes of the state of Michigan. The administration and management of the retirement system, the responsibility for making effective the provisions of this act, and

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the authority to make all rules and regulations necessary therefor are hereby vested in a retirement board.

HISTORY: CL 1948, 38.2.

38.3 Retirement board; members, appointment, terms.

Sec. 3. The retirement board shall consist of 9 members, as follows:

(1) The insurance commissioner, the attorney general, the state treasurer, the deputy legislative auditor general and the state personnel director.

(2) The employee members shall be 3 members of the retirement system, who shall be appointed by the governor. Not more than 1 employee member of the retirement board shall be from any one department, bureau or agency of state government. The term of office of the employee members shall be 3 years and 1 such term shall expire annually.

(3) The retirant member shall be a retirant of the retirement system, who shall be appointed by the governor. The term of office of the retirant member shall be 3 years.

HISTORY: CL 1948, 38.3;—Am. 1965, p. 252, Act 159, Imd. Eff. Jul. 14;—Am. 1970, p. 373, Act 119, Imd. Eff. Jul. 23.

CITED IN OTHER SECTIONS: The above section is cited in § 16.206.

38.4 Retirement board; vacancies, vacation of office.

Sec. 4. (a) Any vacancy occurring 90 days or more before the expiration of the term of any employee or retirant member of the retirement board shall be filled by appointment by the governor. The person thus appointed shall serve for the balance of the unexpired term.

(b) Any employee or retirant member of the retirement board who fails to attend the scheduled meetings of the retirement board for 3 consecutive months or longer, without valid excuse, shall be considered as having resigned from board membership and the retirement board shall declare his office vacated as of the adoption of a proper resolution, and shall notify the governor of the vacancy.

HISTORY: CL 1948, 38.4;—Am. 1955, p. 357, Act 237, Eff. Oct. 24;—Am. 1970, p. 374, Act 119, Imd. Eff. Jul. 23.

38.5 Retirement board; oath of office, quorum, compensation and expenses.

Sec. 5. (a) Board—oath of office—quorum. Each member of the retirement board, created by this act, upon his election or appointment, shall take an oath of office which shall be immediately filed in the office of the secretary of state. A majority of the retirement board shall constitute a quorum for the transaction of any business at any meetings of the board.

(b) Board members serve without compensation. The members of the retirement board shall serve without compensation, but shall suffer no loss because of absence from their regular employment, and shall be reimbursed for all actual necessary expense incurred in performance of their duties in accordance with the statutes of the state of Michigan.

HISTORY: CL 1948, 38.5.

38.6 Retirement board; officers and employees.

Sec. 6. Board chairman—secretary—actuary—medical advisor. The retirement board shall elect from its membership a chairman and a vice chairman, and shall appoint an executive secretary, and shall employ such other actuarial, medical, clerical, technical, and administrative employes as may be necessary for the proper operation of the retirement system. The compensation of all persons so appointed and employed shall be fixed in accordance with the official compensation schedules of the civil service commission.

HISTORY: Am. 1944, 1st Ex. Ses., p. 39, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.6.

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38.7 Retirement system; actuarial valuation of assets and liabilities; investigation of mortality, service and compensation of members.

Sec. 7. The retirement board shall collect and keep in convenient form such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system; and for making an actuarial investigation into the mortality, service, compensation, and other experience of the members, retirants and beneficiaries of the retirement system. At least once in each 5 year period, the retirement board shall cause an actuarial investigation to be made into the mortality, service, compensation, and other experience of the members and beneficiaries of the retirement system. Upon the basis of such actuarial investigation the retirement board shall adopt such tables as are deemed necessary for the proper operation of the retirement system and for making effective the provisions of this act.

HISTORY: CL 1948, 38.7;—Am. 1955, p. 358, Act 237, Imd. Eff. Jun. 21.

38.8 Administrative board; investment of funds, purchase of life insurance or annuity, deposits.

Sec. 8. (a) The members of the retirement board shall be the trustees of the several funds created by this act. The board may invest and reinvest the funds of the system subject to terms and restrictions imposed by law upon a domestic life insurance company in this state in making and disposing of its investments, and subject to the state law relating to the investment of funds of public employee retirement systems or plans. The board may purchase, hold, sell, assign, transfer and dispose of any investment in which any fund of the system has been invested, the proceeds of such investment and any moneys belonging to the system. All such purchases shall be authorized by a resolution adopted by the board. The board may purchase appropriate contracts of life insurance or annuity from insurers duly authorized to do business in the state, if and when such purchase or purchases shall in the judgment of the board be appropriate or necessary to carry out the purposes of this act.

(b) For the purpose of meeting disbursements for retirement allowance and other payments in excess of the receipts, there shall be kept available by the retirement board an amount, not exceeding 10% of the total amount in the funds provided for by this act, on deposit in the state treasury.

HISTORY: CL 1948, 38.8;—Am. 1951, p. 27, Act 25, Imd. Eff. Apr. 13;—Am. 1953, p. 128, Act 127, Imd. Eff. May 27;—Am. 1955, p. 358, Act 237, Imd. Eff. Jun. 21;—Am. 1965, p. 253, Act 159, Imd. Eff. Jul. 14.

38.9 State treasurer as custodian of retirement system funds; powers and duties.

Sec. 9. (a) State treasurer custodian of funds. All bonds or other obligations purchased according to section 8 shall be forthwith placed in the hands of the state treasurer, who is hereby designated as custodian thereof, and it shall be his duty to collect the principal thereof and the interest thereon as the same becomes due and payable, and place the same when so collected into the retirement system's funds herein provided for bonds or other obligations. The administrative board may sell any of said bonds, or other obligations upon like resolution, and the proceeds thereof shall be paid by the purchaser to the state treasurer upon delivery to him of said bonds or other obligations by the state treasurer.

(b) The state treasurer shall be the custodian of all other funds of the retirement system and all disbursements therefrom shall be paid by the auditor general upon vouchers duly authorized by the retirement board and bearing the signature of the duly authorized officer of the retirement board. The state treasurer shall give a separate and additional bond in such amount as may be fixed by the retirement board in the sum of not to exceed $100,000.00 which bond shall be approved by the auditor general and attorney general and shall be conditioned for the faithful performance of his duties as

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custodian of the funds of the retirement system provided for herein. The cost of such bond shall be paid out of the expense fund of the retirement board. Such bond shall be deposited with the secretary of state and kept in his office.

(c) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by such treasurer, and all interest earned by such portion of the said retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him and placed to the credit of the retirement fund.

HISTORY: Am. 1944, 1st Ex. Ses., p. 39, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.9.

38.10 Retirement board members and employees; interest in investments prohibited.

Sec. 10. No employe shall gain from investments. Except as provided herein, no member or employe of the retirement board shall have any interest direct or indirect in the gains or profits of any investment made by the retirement board nor as such directly or indirectly receive any pay or emolument for his services. And no member or person connected with the said retirement board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the retirement board; nor shall any member or employe of the retirement board become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed of the retirement board.

HISTORY: CL 1948, 38.10.

38.11 Retirement system funds; creation.

Sec. 11. The funds hereby created are the employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, and expense fund.

Employees' savings fund.

(a) The employees' savings fund shall be the fund in which shall be accumulated at regular interest the contributions to the retirement system deducted from the compensation of members. The retirement board shall provide for the maintenance of an individual account with each member showing the amount of the member's contributions together with interest thereon. The accumulated contributions of a member returned to him upon his withdrawal from service, or paid to his estate, or designated beneficiary in event of his death, as provided in this act, shall be paid from the employees' savings fund. Any accumulated contributions not claimed by a member, or his legal representative, as provided in this act within 5 years after his separation from state service shall be transferred from the employees' savings fund to the income fund. The accumulated contributions of a member, upon his retirement, shall be transferred from the employees' savings fund to the pension reserve fund.

Employer's accumulation fund.

(b) The employers' [sic] accumulation fund shall be the fund in which shall be accumulated the reserves derived from moneys provided by the state for the payment of all retirement allowances to be payable to retirants and beneficiaries as provided in this act. The amounts paid by the state shall be credited to the employer's accumulation fund. Upon the retirement of a member, or upon his death, if a beneficiary is entitled to a retirement allowance payable from funds of the retirement system, the difference between the reserve for the retirement allowance to be paid on account of the said member's retirement or death, as the case may be, and his accumulated contributions standing to his credit in the employees' savings fund at the time of his retirement or death, as the case may be, shall be transferred from the employer's accumulation fund

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to the pension reserve fund. If, in any year, the pension reserve fund be insufficient to cover the reserves for retirement allowances and other benefits being paid from the said fund, the amount or amounts of such insufficiency or insufficiencies shall be transferred from the employer's accumulation fund to the pension reserve fund.

Annuity reserve fund.

(c) The annuity reserve fund shall be the fund from which shall be paid all annuities, or benefits in lieu thereof, because of which reserves have been transferred from the employees' savings fund to the annuity reserve fund. Upon the adoption of this act, the balance in the annuity reserve fund shall be transferred to the pension reserve fund, and the annuities heretofore payable from the annuity reserve fund shall thereafter become payable from the pension reserve fund.

Pension reserve fund.

(d) The pension reserve fund shall be the fund from which shall be paid all retirement allowances and benefits in lieu of pensions, as provided in this act. In the case of a disability retirant returned to active service with the state, his pension reserve, computed as of the date of his said return, shall be transferred from the pension reserve fund to the employees' savings fund and the employer's accumulation fund in the proportion his reserve, as of the date of his retirement, was transferred to the pension reserve fund from the employees' savings fund and from the employer's accumulation fund. The amounts so transferred to the employees' savings fund shall be credited to the member's individual account therein.

Income fund; gifts.

(e) An income fund is hereby created for the purpose of crediting regular interest on the amounts in the various other funds of the retirement system with the exception of the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. Transfers for such special requirements shall be made only when the amount in the income fund exceeds the ordinary requirements of such fund as evidenced by a resolution of the retirement board recorded in its minutes. The retirement board shall annually allow regular interest for the preceding year to each of the funds enumerated in subsections (a), (b), (c) and (d) of this section, and the amount so allowed shall be due and payable to said funds and shall be annually credited thereto by the retirement board and paid from the income fund: Provided, however, That interest on contributions from members within any one calendar year shall begin on the first day of the calendar year next following, and shall be credited at the end of the calendar year. All income, interest and dividends derived from the deposits and investments authorized by this act shall be paid into the income fund. The retirement board is hereby authorized to accept gifts and bequests. Any funds that may come into the possession of the retirement system in such manner, or any funds which may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by this act, or any other moneys the disposition of which is not otherwise provided for herein shall be credited to the income fund.

Expense fund.

(f) The expense fund shall be the fund from which shall be paid the expenses of the administration of this act, exclusive of amounts payable as retirement allowances and other benefits provided for in this act. The legislature shall appropriate regularly moneys necessary to defray and cover the expenses of administering this act.

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Accounting records.

(g) The description of the various funds in this section shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of assets credited to the various funds of the retirement system.

HISTORY: Am. 1944, 1st Ex. Ses., p. 39, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.11;—Am. 1953, p. 285, Act 198, Eff. Oct. 2;—Am. 1955, p. 358, Act 237, Imd. Eff. Jun. 21.

38.12 Retirement system funds; annual statement of account by state treasurer.

Sec. 12. Report by state treasurer—statement of account in employes' savings fund furnished member. The state treasurer shall furnish annually to the retirement board a statement of the amount of the funds in his custody belonging to the retirement system. Copies of this annual report shall be available to members upon request. The records of the retirement board shall be open to public inspection. Any member of the retirement system shall be furnished with a statement of the amount to the credit of his individual account in the employes' savings fund upon his written request, provided that the retirement board shall not be required to answer more than 1 such request of any member in any 1 year.

HISTORY: CL 1948, 38.12.

38.13 Retirement board; membership.

Sec. 13. (a) Membership in the retirement system shall consist of all state employees occupying permanent positions in the state civil service. Any state employee whose position is not included in the state civil service, or state employed officers or an elected or appointed state official, including county agents of the probate courts appointed pursuant to section 1 of Act No. 22 of the Public Acts of the Extra Session of 1919, as amended, being section 400.251 of the Compiled Laws of 1948, or any employee of the state accident fund as provided by part 5 of Act No. 10 of the Public Acts of the First Extra Session of 1912, as amended, being sections 415.1 to 415.13 of the Compiled Laws of 1948, or the secretary of the senate or the clerk of the house of representatives, or any employee of a state tuberculosis sanatorium taken over by the state from a county who was an employee of said sanatorium on the date said sanatorium become [sic] a state institution, or any employee of a congressionally charted veterans' organization who is paid either wholly or in part from a state general fund appropriation, or any employee of the Michigan veterans' trust fund county committees who is employed on a full-time basis by such committees may become a member by filing a written notice with the retirement board within 1 year of his employment by the state, or on or before July 1, 1971, whichever date occurs later. Such employee shall pay to the retirement fund a sum equal to the amount his contributions would have been had he become a member immediately upon his employment by the state with interest compounded annually at the regular rate from a date 1 year after the date of his employment by the state and date of payment: Provided, however, That employees of the army and air national guard of Michigan performing administrative and accounting duties, maintenance, repair and inspection of material, armament, vehicles, aircraft, and equipment provided for the national guard, and who are paid through federal funds, shall be included in the retirement system membership and service shall be credited only from the date upon which his agreement to become a member is executed by filing a written notice with the retirement board prior to July 1, 1966, or within 1 year of date of his employment with the army and air national guard of Michigan. Membership in the retirement system shall not include any person who is a contributing member in a public school employees' retirement system provided for in Act No. 184 of the Public Acts of 1937, as amended or superseded, or the probate judges' retirement system provided for in Act No. 165 of the Public Acts of 1954, as amended, being sections 38.901 to 38.933 of the Compiled Laws of 1948, or

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the judges' retirement system provided for in Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948, nor shall it include any person who comes within the provisions of the Michigan state police pension, accident and disability system as provided for in Act No. 251 of the Public Acts of 1935, as amended or superseded, being sections 28.101 to 28.110 of the Compiled Laws of 1948. Any person who shall draw compensation as a state employee and also as an employee of any political subdivision of the state shall be eligible for the benefits provided by this act to the extent of his compensation paid by the state.

(b) Membership in the retirement system shall include all clerical employees in the office of the Michigan teachers' retirement fund board, all administrative and nonteaching public school employees in the office of the state superintendent of public instruction, and all administrative and nonteaching public school employees in the office of the state board of education, who have not been retired. The amount of contributions of any such employee remaining to his credit July 1, 1943, in the nonteaching public school employees' retirement fund provided for by Act No. 56 of the Public Acts of 1941 shall be transferred on or before December 1, 1943, by the state treasurer from said fund to the employees' savings fund provided for in this act, and when so transferred shall be credited to such employee's individual account in the said employees' savings fund. Membership of any such employee in the retirement system, provided for by this act, shall exclude such employee from membership in the nonteaching public school employees' retirement fund provided for by Act No. 56 of the Public Acts of 1941, as amended or superseded.

HISTORY: Am. 1944, 1st Ex. Ses., p. 41, Act 25, Imd. Eff. Feb. 29;—Am. 1947, p. 658, Act 351, Eff. Oct. 11;—CL 1948, 38.13;—Am. 1951, p. 265, Act 200, Imd. Eff. Jun. 14;—Am. 1952, p. 40, Act 38, Eff. Sep. 18;—Am. 1955, p. 360, Act 237, Eff. Oct. 24;—Am. 1956, p. 178, Act 91, Imd. Eff. Apr. 5;—Am. 1957, p. 166, Act 145, Imd. Eff. May 29;—Am. 1958, p. 267, Act 207, Imd. Eff. May 5;—Am. 1960, p. 237, Act 156, Eff. Aug. 17;—Am. 1961, p. 55, Act 56, Eff. Sep. 8;—Am. 1965, p. 303, Act 189, Imd. Eff. Jul. 15;—Am. 1970, p. 374, Act 119, Imd. Eff. Jul. 23.

38.14 Information required of members by retirement board.

Sec. 14. Information furnished by members. Within 3 months after this act becomes effective, each original member, and within 30 days after his employment, each new member, shall submit to the retirement board a statement showing his name, sex, title, compensation, duties, date of birth, and length of service as a state employe, and such other information as the retirement board shall require. Each state employe, upon becoming a member, shall file a detailed statement of all his prior service as an employe and shall furnish such other facts as the retirement board may require for the proper operation of the retirement system.

HISTORY: CL 1948, 38.14.

38.15 Original members; prior service certification.

Sec. 15. Subject to such rules and regulations as the retirement board shall adopt, the retirement board shall certify to each original member of the retirement system the aggregate amount of all service rendered by him prior to July 1, 1943. Such certification shall be final and conclusive for retirement purposes as to such service, unless modified by the retirement board upon application made by the member.

HISTORY: CL 1948, 38.15;—Am. 1955, p. 361, Act 237, Imd. Eff. Jun. 21.

38.16 Cessation of membership; reemployment.

Sec. 16. Except as otherwise provided in this act, if a member separates or is separated from state service without leave of absence before becoming eligible to retire with a pension payable from funds of the retirement system, he shall thereupon cease to be a member and he shall forfeit credit for all service rendered by him prior to the date he last separated from state service. If he again becomes employed by the state he shall again become a member of the retirement system. An employee who has heretofore reentered or who hereafter reenters state service within 5 years after the date of his last separation from state service, or who accumulates 5 or more years of continu-

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ous service credit as a member of the retirement system after reentering state service, shall have the service credit forfeited by him at the time he last separated from service restored to his credit, if he has not withdrawn his accumulated contributions from the employees' savings fund, or he returns to the fund all amounts he may have previously withdrawn therefrom, together with regular interest thereon computed from the date of withdrawal to the date of repayment. In the event a member becomes a retirant or dies, he shall thereupon cease to be a member.

HISTORY: Am. 1944, 1st Ex. Ses., p. 41, Act 25, Imd. Eff. Feb. 29;—Am. 1945, p. 247, Act 177, Eff. Sep. 6;—CL 1948, 38.16;—Am. 1953, p. 108, Act 112, Imd. Eff. May 25;—Am. 1954, p. 310, Act 126, Eff. Aug. 13;—Am. 1955, p. 361, Act 237, Eff. Oct. 24;—Am. 1970, p. 375, Act 119, Imd. Eff. Jul. 23.

38.17 Service credited from state board of control for vocational education; conditions.

Sec. 17. (a) At retirement a member's credited service shall include service rendered by him under the state board of control for vocational education, to the same extent that such service would have been credited had it been rendered in a position covered under this act, if the member (1) relinquishes for himself and his beneficiary all rights in and to a retirement allowance under the provisions of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.356 of the Compiled Laws of 1948, and (2) pays into the employees' savings fund the contributions, together with regular interest, he would have paid had such service been rendered in a position covered under this act.

(b) At retirement a member's credited service shall include service rendered by him in a position covered under Act No. 136 of the Public Acts of 1945, as amended, to the same extent that such service would have been credited had it been rendered in a position covered under this act, but such service credit shall not include any period of service for which the member has acquired or could have acquired entitlement to an annuity, pension or retirement allowance payable to or to be payable by a retirement system, except the federal social security old-age, survivors and disability insurance program, under which the political subdivision covers its employees, and if the member (1) relinquishes for himself and his beneficiary all rights in and to a retirement allowance under the provisions of Act No. 136 of the Public Acts of 1945, as amended, and (2) pays into the employees' savings fund the contributions, together with regular interest, he would have paid had such service been rendered in a position covered under this act.

HISTORY: CL 1948, 38.17;—Am. 1951, p. 177, Act 146, Eff. Sep. 28;—Am. 1955, p. 361, Act 237, Imd. Eff. Jun. 21;—Am. 1957, p. 167, Act 145, Imd. Eff. May 29;—Am. 1960, p. 238, Act 156, Eff. Aug. 17;—Am. 1965, p. 253, Act 159, Imd. Eff. Jul. 14;—Am. 1965, p. 304, Act 189, Imd. Eff. Jul. 15;—Am. 1965, p. 781, Act 384, Imd. Eff. Oct. 15.

38.17a Service credited to employees of governmental unit transferred to state; conditions.

Sec. 17a. If the employees of a department of a governmental unit of the state are transferred to the employ of the state, by reason of a function or functions of the department being transferred to the state, the employees so transferred, who (1) do not withdraw their accumulated contributions from the governmental unit's retirement system, and (2) subsequent to the date of their transfer acquire at least 1 year of service credit as a member of the state employees' retirement system, shall be entitled to use the credited service in force previously acquired as members of the governmental unit's retirement system in meeting the service requirements for all retirement allowances and death benefits by the state employees' retirement system. In no case shall the credited service acquired in the employ of the governmental unit be used in computing the amount of a retirement allowance to be paid by the state employees' retirement system.

HISTORY: Add. 1965, p. 820, Act 402, Imd. Eff. Oct. 27;—Am. 1966, p. 142, Act 122, Imd. Eff. Jun. 23.

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38.18 Credit for military or federal service; conditions; credit for prior service, conditions; computation.

Sec. 18. (a) A member of the retirement system who, while an employee of the state, was or who shall be drafted or enlisted into military, naval, marine or other armed service of the United States government during time of war, or a member who is drafted into such armed service during time of peace, and who presents himself for re-employment as a state employee within 6 months of his discharge from such active service, or if hospitalized at date of discharge, presents himself for re-employment as a state employee within 6 months of his release from the military facility, shall have all such active service credited to him as a member of the retirement system, in the same manner as if he had served the state uninterruptedly but no more than 5 years of such service may be credited to any one member. During the period of such active service, and until his return to state employment, his contributions to the employees' savings fund shall be suspended and the balance in the employees' savings fund standing to his credit as of the last payroll date preceding his leave of absence from the service of his department shall be accumulated at regular interest. In the event he withdraws all or part of his accumulated contributions from the employees' savings fund, such active service shall not be credited to him until he returns to the said fund all amounts he may have previously withdrawn therefrom, together with regular interest thereon computed from the date of withdrawal to the date of repayment.

(b) Any person who was in the employ of the Michigan employment service on January 1, 1942, the date on which said employment service and its personnel were taken over by the United States employment service and who continued in the employ of the United States employment service or who was temporarily taken out of the United States employment service for service in the war manpower commission or other government agency engaged in the prosecution of the war and later returned to the United States employment service, and whose service to the state, United States government and state again was continuous and who was in the employ either of the United States employment service or of the state of Michigan on November 16, 1946, the date on which the said employment service was returned to the state, and who re-entered state service on or before said date, shall upon his re-entry into the state service become an original member of the retirement system, and shall receive full service credit for the period during which the personnel of the Michigan employment service was taken over by the United States employment service. Any person who, under the foregoing provision, becomes an original member of the retirement system, may contribute to the employees' savings fund to be deposited to his credit an amount not in excess of the amount of contributions he would have made had he remained in state service at the last salary received prior to his entrance into the United States service: Provided, That such contribution as shall be determined by the actuary of the retirement system is made to the retirement system to cover the employer's liability for such period by the unemployment compensation commission, or by the state of Michigan on such terms and conditions as shall be prescribed by the employees' retirement board.

(c) Any person who heretofore voluntarily left employment with the state for employment with the federal selective service or United States employment service and who has continuously been employed with such federal selective service, United States employment service of the state and is now employed by the state shall be deemed a member of the retirement system as provided in subsection (b).

(d) A member who has prior service as defined in section 1 (j) of this chapter is entitled to credit for his prior service if at the time of retirement he has 15 or more years of total service, of which the last 5 are continuous years of service: Provided, That member contributions must equal the contributions made or that would have been

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made for not less than 15 years of membership service. In the computation of unpaid member contributions, the contribution rate will be computed on the member's salary level at retirement or date of payment, whichever first occurs.

HISTORY: Am. 1948, 1st Ex. Ses., p. 100, Act 41, Imd. Eff. May 10;—CL 1948, 38.18;—Am. 1949, p. 72, Act 72, Eff. Sep. 23;—Am. 1951, p. 266, Act 200, Imd. Eff. Jun. 14;—Am. 1955, p. 361, Act 237, Imd. Eff. Jun. 21;—Am. 1960, p. 238, Act 156, Eff. Aug. 17;—Am. 1962, p. 537, Act 233, Eff. Mar. 28, 1963;—Am. 1966, p. 16, Act 5, Imd. Eff. Mar. 10;—Am. 1968, p. 164, Act 111, Eff. Nov. 15;—Am. 1969, p. 555, Act 299, Imd. Eff. Aug. 11.

38.19 Voluntary retirement; notice, pension.

Sec. 19. (a) Any member who has attained or attains age 60 years or over and has had 10 or more years of credited service may retire upon his written application to the retirement board, setting forth at what time, not less than 30 days, nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. Upon his retirement he shall receive a pension provided for in section 20 of this act.

Retirement before age 60; notice; reduced allowance.

(b) Any member who has attained or attains age 55 years, but has not attained age 60 years, and has 15 or more years of credited service, may retire upon his written application to the retirement board setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. Upon his retirement he shall receive a retirement allowance computed according to section 20 of this act reduced by an amount which is 0.5% of the said retirement allowance multiplied by the number of months, and fraction of a month, his age at retirement is under age 60 years.

Compulsory retirement; continuance in service; elected officers.

(c) On and after January 1, 1957, any member who has attained or attains age 70 years shall be separated from state service on the first day of the calendar month next succeeding the month in which the said member shall have attained the age of 70 years: Provided, That upon application of a member who has attained age 70 years, the retirement board may continue such member in service for such periods as the retirement board may determine to be necessary: Provided, That any elected officer who attains or has attained the age of 70 years and who continues in the service of the state on and after his attainment of age 70 years shall cease to be credited with service performed by him on and after his attainment of age 70 years, any provision in this act to the contrary notwithstanding; his contributions to the employees' savings fund shall cease and his balance in the said fund shall be accumulated at regular interest. In the event the said member has 10 or more years of credited service at the time of his separation from state service, he shall be retired and he shall receive a retirement allowance provided for in section 20 of this act.

HISTORY: CL 1948, 38.19;—Am. 1953, p. 266, Act 196, Eff. Oct. 2;—Am. 1955, p. 362, Act 237, Imd. Eff. Jun. 21.

38.20 Retirement allowance; computation for member having fully insured status under social security act; options.

Sec. 20. (1) Upon his retirement, as provided for in section 19(a) of this act, a member who has acquired fully insured status under the social security act on account of his state employment and exclusive of social security credits earned outside of state employment shall receive a retirement allowance equal to the number of years, and fraction of a year, of credited service multiplied by the sum of 1% of the first $4,200.00 of his final average compensation and 1½% of his final average compensation in excess of $4,200.00: Provided, That his said retirement allowance shall be subject to subsection 6 of this section. Upon his retirement he shall have the right to elect an option provided for in section 31(a) of this act.

Retirement before age 65.

(2) According to such rules and regulations as the board may from time to time adopt, any member who retires prior to his attainment of age 65 years may elect to

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have his regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable to his attainment of age 65 years and a reduced retirement allowance payable thereafter. His increased retirement allowance payable to his attainment of age 65 years shall approximately equal the sum of his reduced retirement allowance payable after his attainment of age 65 years and his estimated social security primary insurance amount.

Retirement before acquiring social security fully insured status before January 1, 1965; increased allowance.

(3) Upon his retirement prior to January 1, 1965, as provided in section 19(a) of this act, a member, who has not acquired fully insured status under the federal social security act on account of his state employment for reasons beyond his control as determined by the state employees' retirement board, shall receive a retirement allowance provided for in subsection (5) of this section increased 5%, and upon his retirement he shall have the right to elect an option provided for in section 31 (a) of this act.

Same; reduced allowance.

(4) Upon his retirement prior to January 1, 1965, as provided in section 19(b) of this act, a member, who has not acquired fully insured status under the federal social security act on account of his state employment, shall receive a retirement allowance provided for in subsection (5) of this section, reduced as provided in section 19(b) of this act. Upon his retirement he shall have the right to elect an option provided for in section 31 (a) of this act.

Retirement allowance, elements.

(5) A retirement allowance shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A basic service pension of $120.00 per annum; and

(c) A membership service pension which shall be equal to 1/140 of his final average compensation for each year of membership service credited to his service account; and

(d) A prior service pension which shall be equal to 1/70 of his final average compensation for each year of prior service, not to exceed 35 years, credited to his service account; in no case shall the pension provided for in this paragraph exceed $1,800.00 per annum.

Death of retirant, payment of contributions.

(6) In the event a retirant dies before he has received in payment of his retirement allowance an aggregate amount equal to his accumulated contributions standing to his credit in the employees' savings fund at the time of his retirement, the difference between his said accumulated contributions and the amount of retirement allowance received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the board. In the event there be no such person or persons surviving the said retirant, then such difference, if any, shall be paid to his legal representative. No benefits shall be paid under this paragraph on account of the death of such retirant if he elected option a or b provided for in section 31 (a) of this act.

Separation from service, continuation of membership; retirement after age 60.

(7) Should any member (1) who has 25 or more years of service credited to his service account, or (2) who has at least 15 years of service credited to his service account and who has attained the age of 50 years, or (3) who has at least 8 years service as an elected or appointed officer credited to his service account, or (4) who has 10 or more years of service credited to his service account and whose employment by the state is

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terminated by reason of the discontinuance of the agency or function in which he has been employed, be separated from the service of the state, he shall remain a member during the period of his absence from the state service for the exclusive purpose only of receiving a service retirement allowance provided for in this section: Provided, That if such member should withdraw all or part of his accumulated contributions, he shall thereupon cease to be a member. Upon his attainment of age 60 years or over, such member may retire upon his written application to the retirement board as provided in subdivision (a) of section 19 of this act. Notwithstanding any provision of this act to the contrary, if any employee has heretofore selected an option as provided under paragraph (a) of section 31 of this act, but died prior to the effective date of his retirement, the option selected by such employee shall be carried out and the beneficiary or beneficiaries shall be entitled to all advantages due thereunder.

HISTORY: Am. 1944, 1st Ex. Ses., p. 42, Act 25, Imd. Eff. Feb. 29;—Am. 1945, p. 247, Act 177, Eff. Sep. 6;—Am. 1947, p. 659, Act 351, Eff. Oct. 11;—CL 1948, 38.20;—Am. 1949, p. 73, Act 72, Eff. Sep. 23;—Am. 1951, p. 267, Act 200, Imd. Eff. Jun. 14;—Am. 1953, p. 267, Act 196, Eff. Oct. 2;—Am. 1954, p. 310, Act 126, Eff. Aug. 13;—Am. 1955, p. 362, Act 237, Imd. Eff. Jun. 21;—Am. 1956, p. 167, Act 80, Eff. Aug. 11;—Am. 1958, p. 56, Act 54, Eff. Sep. 13.

38.20a Retirement allowance; minimum.

Sec. 20a. After July 1, 1968 any person now retired or who shall be hereafter retired under the provisions of this act and who has completed at least 10 years of service shall receive a total retirement allowance of not less than $60.00 multiplied by his total number of years, but not to exceed 30 years of service credited to his account.

HISTORY: Add. 1957, p. 291, Act 232, Eff. Sep. 27;—Am. 1968, p. 149, Act 94, Imd. Eff. Jun. 4.

38.21 Duty disability retirement.

Sec. 21. Subject to the provisions of sections 33 and 34, upon the application of a member, or his department head, or the state personnel director, a member who becomes totally incapacitated for duty in the service of the state of Michigan without willful negligence on his part, by reason of a personal injury or disease, which the retirement board finds to have occurred as the natural and proximate result of the said member's actual performance of duty in the service of the state, shall be retired: Provided, The medical advisor after a medical examination of said member shall certify in writing that said member is mentally or physically totally incapacitated for the further performance of duty in the service of the state, and that such incapacity will probably be permanent, and that said member should be retired: And provided further, That the retirement board concurs in the recommendation of the medical advisor.

HISTORY: Am. 1944, 1st Ex. Ses., p. 42, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.21;—Am. 1951, p. 267, Act 200, Imd. Eff. Jun. 14.

38.22 Duty disability retirement after age 65; service retirement allowance.

Sec. 22. Upon retirement for disability, as provided in section 21, a member who has attained age 65 shall receive a service retirement allowance as provided for in section 20. Notwithstanding that he may not have 10 years of credited service, he shall be credited with 10 years of service.

HISTORY: Am. 1944, 1st Ex. Ses., p. 42, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.22;—Am. 1955, p. 364, Act 237, Imd. Eff. Jun. 21.

38.23 Duty disability retirement before age 65; disability retirement allowance.

Sec. 23. Upon retirement for disability, as provided for in section 21, a member who has not attained age 65 years shall receive the following benefits, subject to the provisions of sections 33 and 34 of this act.

(a) A disability retirement allowance of 2/3 of his final average compensation, said retirement allowance to begin as of the date of his disability, but not more than 6 months prior to the date his application for disability retirement was filed with the retirement board, nor prior to the date his name last appeared on a state payroll with pay, whichever is later, and to continue to his attainment of age 65 years or recovery

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or death, whichever event shall first occur. Said disability retirement allowance, payable to any disability retirant, shall not exceed $2,200.00 per annum, nor be more than an amount which when added to the statutory workmen's compensation benefits applicable in his case shall exceed his final compensation.

(b) Upon attaining age 65 years, the said disability retirant shall receive a retirement allowance, computed according to the provisions of section 20: Provided, That in computing his retirement allowance, he shall be given membership service credit for the period during which he was receiving the disability retirement allowance provided for in paragraph (a) of this section: Provided, That upon attaining age 65 years he shall have the right to elect an option provided for in section 31(a) of this act.

(c) During the period a disability retirant is receiving a disability retirement allowance, as provided for in paragraph (a) of this section, his contributions to the employees' savings fund shall be suspended and his balance in the said fund, standing to his credit as of the date his disability retirement allowance begins, shall remain in the said savings fund and shall be accumulated at regular interest. Upon attaining age 65 years, his said accumulated contributions shall be transferred from the employees' savings fund to the pension reserve fund. If said disability retirant should die before attaining age 65 years, his accumulated contributions standing to his credit in the employees' savings fund, shall be paid to such person or persons, as he shall have nominated by written designation duly executed and filed with the retirement board, or if there be no such designated person or persons surviving, then to his legal representative.

HISTORY: Am. 1944, 1st Ex. Ses., p. 42, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.23;—Am. 1951, p. 267, Act 200, Imd. Eff. Jun. 14;—Am. 1953, p. 288, Act 196, Eff. Oct. 2;—Am. 1954, p. 311, Act 128, Eff. Aug. 13;—Am. 1955, p. 364, Act 237, Imd. Eff. Jun. 21.

38.24 Non-duty disability retirement; medical examination required.

Sec. 24. Subject to the provisions of sections 33 and 34, upon application of a member, or his department head, or the state personnel director, a member who has been a state employee at least 10 years becomes totally and permanently incapacitated for duty as the result of causes occurring not in the performance of duty to the state, may be retired by the retirement board: Provided, The medical advisor after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, and such incapacity is likely to be permanent and that such member should be retired.

HISTORY: Am. 1944, 1st Ex. Ses., p. 43, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.24;—Am. 1955, p. 364, Act 237, Imd. Eff. Jun. 21.

38.25 Non-duty disability retirement; disability retirement allowance, computation.

Sec. 25. Upon retirement for disability, as provided in section 24 of this act, a member shall receive a disability retirement allowance computed in accordance with the provisions of subsection (1) or (3) of section 20 of this act. The retirement allowance or pension provided shall not be less than $600.00 per annum.

HISTORY: Am. 1944, 1st Ex. Ses., p. 43, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.25;—Am. 1955, p. 365, Act 237, Imd. Eff. Jun. 21.

38.26 Repealed. 1955, p. 369, Act 237, Eff. Oct. 24.

Section provided for non-duty disability retirement allowance to public employees before age 60.

38.27 Death proximately caused by state employment; benefits.

Sec. 27. In the event (1) a member dies as a result of a personal injury or disease arising out of and in the course of his employment with the state, or (2) a disability retirant, who retired under section 21 of this act, dies prior to his attainment of age 65 years and within a period of 3 years from and after his disability retirement from the same causes for which he was retired, in either case (1) or (2) such death, illness or injuries resulting in death, be found by the retirement board to have been the sole and exclusive result of employment with the state, the applicable benefits provided in par-

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agraphs (a), (b), (c) and (d) of this section shall be paid, subject to paragraph (e) of this section.

Accumulated contributions.

(a) The accumulated contributions standing to the member's account in the employees' savings fund shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the retirement board, or if there be no such designated person or persons surviving, then to his legal representative; and

Widow and children.

(b) A retirement allowance of 1/3 of the final compensation of such deceased person shall be paid to his widow, to continue during her widowhood: Provided, That such deceased person's widow shall be the person to whom he was married at the time he last terminated his employment with the state. If a child or children under the age of 18 years also survives the deceased person, each such child shall receive an allowance of an equal share of 1/4 of the deceased person's final compensation. Upon the marriage, death or attainment of age 18 years of any such child, there shall be a redistribution by the retirement board to his remaining children under age 18 years.

Change in status of beneficiaries.

(c) In the event there be no widow, or if the widow dies or remarries before the youngest surviving child of such deceased person shall have attained the age of 18 years, then his child or children under such age shall each receive an allowance equal to 1/4 of the said deceased person's final compensation, but in no event shall the total so paid in any year to the children of any such deceased person exceed 1/2 of his final compensation. If there be more than 2 such surviving children under age 18 years, each such child shall receive an allowance of an equal share of 1/2 of said deceased person's final compensation. Upon the marriage, death or attainment of age 18 years of any such child, his allowance shall terminate and there shall be a redistribution by the retirement board to his remaining eligible children under such age, but in no case shall any child receive an allowance more than 1/4 of said person's final compensation.

Dependent parents.

(d) If there be neither widow nor children under age 18 years surviving the said deceased person, then there shall be paid to his dependent father and/or dependent mother, as the retirement board after investigation shall determine to have been actually dependent upon said deceased person through absence of earning power due to disability, an allowance of 1/6 of said deceased person's final compensation to each such dependent parent.

Maximum benefits payable.

(e) In no case shall the total of the retirement allowances payable under paragraphs (b), (c) and (d) of this section, on account of the death of a member or retirant, exceed $2,400.00 per annum, nor an amount which, when added to the statutory workmen's compensation benefit to which the dependents of the said member or retirant may be entitled, exceeds his final compensation.

HISTORY: Am. 1944, 1st Ex. Sess., p. 44, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.27;—Am. 1953, p. 269, Act 196, Eff. Oct. 2;—Am. 1954, p. 312, Act 126, Eff. Aug. 13;—Am. 1955, p. 365, Act 237, Imd. Eff. Jun. 21.

38.28 Withdrawal of member before retirement; refund of contributions; restoration on re-employment; court administrator.

Sec. 28. Should a member cease to be an employee before attaining age 60 years, or after attaining such age but before becoming eligible for a retirement allowance, for any reason except his retirement or death, or should a member be granted military leave as prescribed by the rules of the civil service commission, he shall be paid his accumulated contributions standing to his credit in the employees' savings fund, as he

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shall demand in writing upon forms furnished by the retirement board, subject to section 30. Any person who has withdrawn his accumulated contributions, as provided for in this section, and who again becomes a member, may restore to the employees' savings fund the amount previously withdrawn by him, together with regular interest from the date of withdrawal to the date of repayment. If the constitutional court administrator becomes a member of the judges' retirement system established by Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948, he shall thereupon cease to be a member of this retirement system, regardless of his age, and his accumulated contributions standing to his credit in the employees' savings fund shall be returned to him.

HISTORY: Am. 1944, 1st Ex. Ses., p. 45, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.28;—Am. 1955, p. 366, Act 237, Imd. Eff. Jun. 21;—Am. 1965, p. 458, Act 267, Imd. Eff. Jul. 21.

38.29 Death before retirement; refund of contributions.

Sec. 29. Should a member die before his service retirement becomes effective, the accumulated contributions standing to his credit in the employees' savings fund, at the time of his death, shall be paid, except as otherwise provided in this act, to such person or persons as he shall have nominated by written designation duly executed and filed with the retirement board, or if there be no such designated person or persons, then to his legal representative.

HISTORY: Am. 1944, 1st Ex. Ses., p. 45, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.29;—Am. 1953, p. 270, Act 196, Eff. Oct. 2;—Am. 1955, p. 366, Act 237, Imd. Eff. Jun. 21.

38.30 Withholding refund of contributions.

Sec. 30. Board may withhold refunds of contributions. The retirement board may, in its discretion, withhold payment of all or part of a member's contributions for not more than 6 months after a member has ceased to be an employe.

HISTORY: Am. 1944, 1st Ex. Ses., p. 45, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.30.

38.31 Optional retirement allowances; nomination of joint beneficiary; surviving spouse.

Sec. 31. (a) Prior to the effective date of his retirement, but not thereafter, any member who is eligible for retirement, as provided in section 19, may elect to receive his benefit in a retirement allowance payable throughout life (called a regular retirement allowance); or he may elect to receive the actuarial equivalent at that time of his regular retirement allowance in reduced retirement allowance payable throughout his life, and nominate a joint beneficiary, in accordance with the provisions of option A or B, as hereinafter set forth;

Option A. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board prior to the effective date of his retirement; or

Option B. Upon his death, 1/2 of his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board prior to the effective date of his retirement.

(b) Any member who continues in the employ of the state on and after the date he either acquires 25 years of service credit, or becomes entitled to retire with a service retirement allowance provided for in section 20, whichever occurs first, may by written declaration duly executed and filed with the retirement board, in the manner and form prescribed by the retirement board, elect option A, provided for in paragraph (a) of this section, and nominate a joint beneficiary whom the retirement board finds to be dependent upon the said member for at least 50% of his support, with regard to his retirement allowance provided for in section 20 of this act in the same manner as if he

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were then retiring from service, notwithstanding that he may not have attained age 60 years. In the case of said beneficiary's death, or divorce from the said member, prior to the effective date of the said member's retirement, the said member's election of option A and nomination of joint beneficiary shall be automatically revoked and he may again elect the said option A and nominate a joint beneficiary, whom the retirement board finds to be dependent upon the said member for at least 50% of his support, at any time prior to the effective date of his retirement. In the event any member, who shall have made an election and nominated a joint beneficiary, by written declaration as provided in this paragraph, shall die prior to the effective date of his retirement, then the said joint beneficiary shall immediately receive the same retirement allowance as the said joint beneficiary would have been entitled to receive under the said option A if the said member had been regularly retired at that time. In the event a member who shall have made an option election in force under the provisions of this paragraph subsequently retires pursuant to the provisions of section 19 of this act, his said election of option A shall then take immediate effect at the time of his retirement: Provided, That he shall have the right, within 60 days preceding the effective date of his retirement, but not thereafter, to revoke his previous election of option A and elect to receive his retirement allowance as a regular retirement allowance or under option B as provided for in paragraph (a) of this section. No retirement allowance shall be paid under this paragraph (b), on account of the death of a member, if any benefits are paid under section 27 on account of his death.

(c) Any member who continues in the employ of the state on and after the date he acquires 20 years of service credit, or becomes entitled to retire with a service retirement allowance provided for in section 20 of this act, whichever occurs first, and does not have an election of option A in force as provided in paragraph (b) of this section, and (1) dies prior to the effective date of his retirement, and (2) leaves a widow, or in the case of a female member leaves a husband, his widow or her husband shall receive a retirement allowance computed in the same manner, in all respects, as if the member had (1) retired effective the day preceding the date of his death, (2) elected option A provided for in paragraph (a) of this section, and (3) nominated his widow or her husband as joint beneficiary. In the event the joint beneficiary remarries or dies his retirement allowance shall terminate: Provided, That if the aggregate amount of retirement allowance payments received by said beneficiary is less than the accumulated contributions credited to the said member's account in the employees' savings fund at the time of the said member's death, the difference between his said accumulated contributions and the aggregate amount of retirement allowance payments received by him shall be transferred from the employer's accumulation fund or pension reserve fund, as the case may be, to the employees' savings fund and paid in accordance with section 29 of this act. No retirement allowance shall be paid under this paragraph (c), on account of the death of a member, if any benefits are paid under section 27 of this act on account of his death.

HISTORY: CL 1948, 38.31;—Am. 1949, p. 74, Act 72, Eff. Sep. 23;—Am. 1951, p. 268, Act 200, Imd. Eff. Jun. 14;—Am. 1953, p. 270, Act 196, Eff. Oct. 2;—Am. 1955, p. 366, Act 237, Imd. Eff. Jun. 21;—Am. 1968, p. 165, Act 111, Eff. Nov. 15.

38.32 Repealed. 1955, p. 369, Act 237, Eff. Oct. 24.

Section provided that retirement benefits be offset by workmen's compensation or similar benefits.

38.33 Disability retirant under age 60; medical examination required; reduction of retirement allowance on account of gainful employment.

Sec. 33. (a) Once each year during the first 5 years following the retirement of a member on a disability retirement allowance, and at least once in every 3 year period thereafter the retirement board may, and upon the retirant's application shall, require any disability retirant, who has not attained age 60 years, to undergo a medical examination; such examination to be made by or under the direction of the medical advisor

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at the place of residence of said retirant, or other place mutually agreed upon. Should any disability retirant, who has not attained age 60 years, refuse to submit to such medical examination in any such period, his disability retirement allowance may be discontinued until his withdrawal of such refusal, and should such refusal continue for 1 year, all his rights in and to his disability retirement allowance may be revoked by the retirement board. If upon such medical examination of a disability retirant, the medical advisor reports and his report is concurred in by the retirement board, that the disability retirant is physically able and capable of resuming employment, he shall be restored to active service with the state and his disability retirement allowance shall cease.

(b) Should the secretary report and certify to the retirement board that such disability beneficiary is engaged in a gainful occupation paying more than the difference between his disability retirement allowance and his final compensation, and should the retirement board concur in such report, then the amount of his retirement allowance shall be reduced to an amount which together with the amount earned by him shall equal his final compensation. Should the earnings of such disability retirant be later changed, the amount of his retirement allowance shall be further modified in like manner.

HISTORY: CL 1948, 38.33;—Am. 1955, p. 367, Act 237, Imd. Eff. Jun. 21.

38.34 Disability retirant; reinstatement to service, service credits allowable.

Sec. 34. A disability retirant who has been or shall be reinstated in active service, as provided in section 33, shall from the date of such reinstatement again become a member of the retirement system. Upon reinstatement of such disability retirant to active service, any balance he may have in the pension reserve fund at the time of such reinstatement to active service, shall be transferred from the pension reserve fund to the employees' savings fund and credited to his individual account in the employees' savings fund. Any service, on the basis of which his retirement allowance was computed at the time of his retirement, shall be restored to full force and effect, and, except in the case of retirement for non-duty disability as provided in section 24, he shall be given service credit for the period of time he was out of service due to such disability.

HISTORY: Am. 1944, 1st Ex. Ses., p. 45, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.34;—Am. 1955, p. 368, Act 237, Imd. Eff. Jun. 21.

38.35 Payroll deduction of contributions to employees' savings fund; federal social security program.

Sec. 35. Each member shall, to the date the members of the retirement system become covered under the federal social security old-age and survivors' insurance program on account of their state employment, contribute 5% of the first $4,800.00 of his annual compensation to the employees' savings fund. From and after the said date upon which members of the retirement system become covered under the said old-age and survivors' insurance program, each member shall contribute to the employees' savings fund 3% of the first $4,200.00 of his annual compensation plus 5% of his annual compensation in excess of $4,200.00. The officer or officers responsible for making up the payroll shall deduct the contributions provided for in this section from the compensation of each member on each and every payroll, for each and every payroll period subsequent to the date he became a member of the retirement system. In determining a member's compensation in a payroll period, the retirement board and the department head may consider the rate of compensation payable to such member on the first day of the payroll period as continuing through such payroll period, and deductions may be omitted from such compensation for any period less than a full payroll period, if an employee was not a member on the first day of the payroll period.

HISTORY: CL 1948, 38.35;—Am. 1953, p. 271, Act 196, Eff. Oct. 2;—Am. 1955, p. 368, Act 237, Imd. Eff. Jun. 21.

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38.36 Payroll deduction of contributions to employees' savings fund; members' agreement presumed.

Sec. 36. The deductions from the compensation of members, provided for in section 35 of this act, shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for in this act, and payment less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to benefits provided for under this act.

HISTORY: Am. 1944, 1st Ex. Ses., p. 45, Act 25, Imd. Eff. Feb. 29;—CL 1948, 38.36;—Am. 1955, p. 368, Act 237, Imd. Eff. Jun. 21.

38.37 Payroll deduction of contributions to employees' savings fund; report to retirement board.

Sec. 37. Transmittal of total of members' deductions. The officer responsible for making up the payroll shall transmit promptly to the retirement board at the end of each and every payroll period a copy of the original payroll voucher or such other payroll report as the retirement board may require showing thereon all deductions for the retirement system made from the salary earnable of each member, together with warrants or checks covering the total of such deductions. The retirement board after making a record of all such receipts shall pay them to the state treasurer for use according to the provisions of this act.

HISTORY: CL 1948, 38.37.

38.38 Reserves for retirement allowances; state appropriations for current and accrued service.

Sec. 38. Upon the basis of such mortality and other experience tables as the retirement board shall from time to time adopt and regular interest, the actuary shall annually compute the reserves for retirement allowances being paid retirants and beneficiaries and reserves covering service rendered, and to be rendered, by members. The said reserves so computed shall be financed by state appropriations which shall be the sum of the following items:

(a) The state's appropriation for current service shall be an amount which, if paid annually during the future service of members, will be sufficient to provide the reserves at the time of their retirement, after allowing for members' future net contributions, for the portions of the retirement allowances to be paid based upon their future service; and

(b) The state's appropriations for members' accrued service shall be an amount which if paid annually over a period of years, not to exceed 50 years, will amortize, at regular interest, the unfunded reserves for the accrued service portions of retirement allowances to which members may become entitled.

HISTORY: CL 1948, 38.38;—Am. 1953, p. 271, Act 196, Eff. Oct. 2;—Am. 1955, p. 368, Act 237, Imd. Eff. Jun. 21.

38.39 Reserves for retirement allowances; appropriations to employer's accumulation fund.

Sec. 39. Upon determination of the amounts necessary to maintain adequate reserves as provided in section 38, the retirement board shall recommend the amount required to be appropriated by the state and report the same to the governor and the amounts appropriated by the legislature shall be paid into the employer's accumulation fund during the ensuing fiscal year.

HISTORY: CL 1948, 38.39;—Am. 1953, p. 272, Act 196, Eff. Oct. 2;—Am. 1955, p. 369, Act 237, Imd. Eff. Jun. 21.

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38.39a Reserves for retirement allowances; legislative determination of funds from which appropriations made.

Sec. 39a. In the making of appropriations required under the provisions of sections 38 and 39 of this act, the appropriations by the legislature meeting employer's contributions covering employes, to the extent of compensation and employe's contributions, now or hereafter paid from the general fund, the state highway fund, the game and fish protection fund, and any other special fund or funds, including the appropriation made under section 22 of article 6 of the state constitution, shall be made from said fund or funds in such amounts as the legislature shall determine.

HISTORY: Add. 1944, 1st Ex. Ses., p. 10, Act 3, Imd. Eff. Feb. 16;—CL 1948, 38.39a.

38.40 Exemption clause.

Sec. 40. Exemption clause. The right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this act, the various funds created by this act, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable except as in this act specifically provided.

HISTORY: CL 1948, 38.40.

38.41 Correction of errors in payment of retirement allowances.

Sec. 41. Should any change or error in the records result in any member, retirant or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member, retirant or beneficiary was correctly entitled shall be paid.

HISTORY: CL 1948, 38.41;—Am. 1955, p. 369, Act 237, Imd. Eff. Jun. 21.

38.42 Retirement system records; falsification, penalty.

Sec. 42. Penalty for false statements. Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a misdemeanor and shall upon conviction thereof be fined not less than $10.00 nor more than $100.00.

HISTORY: CL 1948, 38.42.

38.43 Social security taxes; payment from payroll deductions and employer's accumulation fund.

Sec. 43. (a) For each state employee who is a member of the retirement system, his social security taxes retroactive from the date of the social security agreement to January 1, 1955, or to his entry date into state service, whichever is later, shall be deducted from and paid from his individual account in the state employees' savings fund. For each state employee who is not a member of the retirement system, his social security taxes retroactive from the date of the social security agreement to January 1, 1955, or to the date he enters state service, whichever is later, shall be deducted from his first payroll check following the social security date.

(b) The employer's social security taxes to be paid retroactive from the social security date to January 1, 1955, shall be paid by the state from the employer's accumulation fund.

HISTORY: Add. 1955, p. 369, Act 237, Imd. Eff. Jun. 21.

Original section 43 of Act 240 of 1943, p. 400, was a severing clause section and was repealed by Act 267 of 1945.

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Act 4, 1937 (Ex. Ses.), p. 902; Eff. Sep. 1.

AN ACT relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act. Am. 1964, p. 8, Act 2, Eff. Aug. 28.

The People of the State of Michigan enact:

ARTICLE I.
DEFINITIONS.

38.71 Teacher; definition.

Sec. 1. The term "teacher" as used in this act shall include all certificated persons employed for a full school year by any board of education or controlling board of any public educational institution.

HISTORY: CL 1948, 38.71;—Am. 1967, p. 313, Act 216, Imd. Eff. Jul. 10.

38.72 Certificated; definition.

Sec. 2. The term "certificated" shall be as defined by the state board of education.

HISTORY: CL 1948, 38.72;—Am. 1967, p. 313, Act 216, Imd. Eff. Jul. 10.

38.73 Controlling board; definition.

Sec. 3. The term "controlling board" shall include all boards having the care, management, or control over public school districts and public educational institutions.

HISTORY: CL 1948, 38.73.

38.74 Demote; definition.

Sec. 4. The word "demote" shall mean to reduce compensation or to transfer to a position carrying a lower salary.

HISTORY: CL 1948, 38.74.

38.75 School year; definition.

Sec. 5. The "school year" shall be defined as the legal school year at the time and place where service was rendered.

HISTORY: CL 1948, 38.75.

ARTICLE II.
PROBATIONARY PERIOD.

38.81 Teachers' probationary period; authority of controlling board to grant continuing tenure.

Sec. 1. All teachers during the first 2 school years of employment shall be deemed to be in a period of probation: Provided, That any teacher under contract at the time this act becomes effective who has previously rendered 2 or more years of service in the same school district shall be granted continuing tenure immediately upon reappointment by the controlling board: Any such controlling board by unanimous vote of its members, however, may refuse to appoint a teacher who has rendered 2 or more years service in the school district under its control. In the event the vote against reappointment of such teacher is not unanimous the controlling board shall deem such teacher as on continuing tenure with full right to hearing and appeal as provided in article 4 and article 6 of this act: Provided further, That the controlling board, after this act becomes effective, may place on continuing tenure any teacher who has previously rendered 2 or more years of service.

HISTORY: CL 1948, 38.81.

CITED IN OTHER SECTIONS: Sections 38.81 to 38.191 are cited in § 16.406.

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38.82 Probationary period; limitation, extension.

Sec. 2. No teacher shall be required to serve more than 1 probationary period in any 1 school district or institution: Provided, That a third year of probation may be granted by the controlling board upon notice to the tenure commission.

HISTORY: CL 1948, 38.82.

38.83 Controlling board; statements of performance and notices of dismissal, issuance to probationary teachers.

Sec. 3. At least 60 days before the close of each school year the controlling board shall provide the probationary teacher with a definite written statement as to whether or not his work has been satisfactory. Failure to submit a written statement shall be considered as conclusive evidence that the teacher's work is satisfactory. Any probationary teacher or teacher not on continuing contract shall be employed for the ensuing year unless notified in writing at least 60 days before the close of the school year that his services will be discontinued.

HISTORY: CL 1948, 38.83;—Am. 1967, p. 313, Act 216, Imd. Eff. Jul. 10.

38.84 Probationary period; portions of act inapplicable.

Sec. 4. Articles 4, 5 and 6 shall not apply to any teacher deemed to be in a period of probation.

HISTORY: Add. 1963, p. 422, Act 242, Eff. Sep. 6.

ARTICLE III.

CONTINUING TENURE.

38.91 Teacher on continuing tenure; contracts of employment in administrative capacity; salary; extra duty for extra pay.

Sec. 1. After the satisfactory completion of the probationary period, a teacher shall be employed continuously by the controlling board under which the probationary period has been completed, and shall not be dismissed or demoted except as specified in this act. If the controlling board shall provide in a contract of employment of any teacher employed other than as a classroom teacher, including but not limited to, a superintendent, assistant superintendent, principal, department head or director of curriculum, made with such teacher after the completion of the probationary period, that such teacher shall not be deemed to be granted continuing tenure in such capacity by virtue of such contract of employment, then such teacher shall not be granted tenure in such capacity, but shall be deemed to have been granted continuing tenure as an active classroom teacher in such school district. Upon the termination of any such contract of employment, if such controlling board shall not re-employ such teacher under contract in any such capacity, such teacher shall be continuously employed by such controlling board as an active classroom teacher. Failure of any controlling board to re-employ any such teacher in any such capacity upon the termination of any such contract of employment shall not be deemed to be a demotion within the provisions of this act. The salary in the position to which such teacher is assigned shall be the same as if he had been continuously employed in the newly assigned position. Failure of any such controlling board to so provide in any such contract of employment of any teacher in a capacity other than a classroom teacher shall be deemed to constitute the employment of such teacher on continuing contract in such capacity and subject to the provisions of this act. Continuing tenure shall not apply to an annual assignment of extra duty for extra pay.

HISTORY: Am. 1941, p. 148, Act 119, Imd. Eff. May 23;—CL 1948, 35.91;—Am. 1963, p. 422, Act 242, Eff. Sep. 6.

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38.92 Teacher on continuing tenure; employment by another controlling board.

Sec. 2. If a teacher on continuing tenure is employed by another controlling board, he shall not be subject to another probationary period of more than 1 year beginning with the date of employment, and may at the option of the controlling board be placed immediately on continuing tenure. Any notice provided under section 3 of article 2 shall be given at least 60 days before the completion of the year of probation. If a teacher on continuing tenure becomes an employee of another controlling board as a result of school district annexation, consolidation or other form of school district reorganization, he shall be placed on continuing tenure within 30 days unless the controlling board, by a 2/3 vote on an individual basis, places the teacher on not more than 1 year probation.

HISTORY: CL 1948, 38.92;—Am. 1967, p. 313, Act 216, Imd. Eff. Jul. 10.

ARTICLE IV.

DISCHARGE, DEMOTION OR RETIREMENT.

38.101 Teacher on continuing tenure; discharge, demotion or retirement; continuation of contracts of teachers over retirement age.

Sec. 1. Discharge or demotion of a teacher on continuing tenure may be made only for reasonable and just cause, and only after such charges, notice, hearing, and determination thereof, as are hereinafter provided. Nothing in this act shall be construed as preventing any controlling board from establishing a reasonable policy for retirement to apply equally to all teachers who are eligible for retirement under Act No. 136 of the Public Acts of 1945 or having established a reasonable retirement age policy, from temporarily continuing on criteria equally applied to all teachers the contract on a year-to-year basis of any teacher whom the controlling board might wish to retain beyond the established retirement age for the benefit of the school system.

HISTORY: Am. 1941, p. 148, Act 119, Imd. Eff. May 23;—CL 1948, 38.101;—Am. 1966, p. 30, Act 15, Imd. Eff. Apr. 6.

Article heading Am. 1941, p. 148, Act 119, Imd. Eff. May 23.

38.102 Charges against teacher; filing, notice and hearing.

Sec. 2. All charges against a teacher shall be made in writing, signed by the person making the same, and filed with the secretary, clerk or other designated officer of the controlling board. Charges concerning the character of professional services shall be filed at least 60 days before the close of the school year. The controlling board, if it decides to proceed upon such charges, shall furnish the teacher with a written statement of the charges including a statement of the teacher's rights under this article, and shall, at the option of the teacher, provide for a hearing to take place not less than 30 nor more than 45 days after the filing of such charges.

HISTORY: CL 1948, 38.102;—Am. 1967, p. 313, Act 216, Imd. Eff. Jul. 10.

38.103 Suspension of teacher pending decision; compensation.

Sec. 3. On the filing of charges in accordance with this section, the controlling board may suspend the accused teacher from active performance of duty until a decision is rendered by the controlling board, but the teacher's salary shall continue during such suspension: Provided, That if the decision of the controlling board is appealed and the tenure commission reverses the decision of the controlling board, the teacher shall be entitled to all salary lost as a result of such suspension.

HISTORY: CL 1948, 38.103.

38.104 Hearing; rules and regulations.

Sec. 4. The hearing shall be conducted in accordance with the following provisions:

a. The hearing shall be public or private at the option of the teacher affected.

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b. No action shall be taken resulting in the demotion or dismissal of a teacher except by a majority vote of the members of the controlling board.

c. Both the teacher and the person filing charges may be represented by counsel.

d. Testimony at hearings shall be on oath or affirmation.

e. The controlling board shall employ a stenographer who shall make a full record of the proceedings of such hearing and who shall, within 10 days after the conclusion thereof, furnish the controlling board and the teacher affected thereby with a copy of the transcript of such record, which shall be certified to be complete and correct.

f. Any hearing held for the dismissal or demotion of a teacher, as provided in this act, must be concluded by a decision in writing, within 15 days after the termination of the hearing. A copy of such decision shall be furnished the teacher affected within 5 days after the decision is rendered.

g. The controlling board shall have the power to subpoena witnesses and documentary evidence, and shall do so on its own motion or at the request of the teacher against whom charges have been made. If any person shall refuse to appear and testify in answer to any subpoena issued by the controlling board, such controlling board may petition the circuit court of the county setting forth the facts which court shall thereupon issue its subpoena commanding such person to appear before the controlling board there to testify as to the matters being inquired into. Any failure to obey such order of the court may be punished by such court as contempt thereof.

HISTORY: CL 1948, 38.104.

38.105 Necessary reduction in personnel; first vacancy.

Sec. 5. Any teacher on permanent tenure whose services are terminated because of a necessary reduction in personnel shall be appointed to the first vacancy in the school district for which he is certified and qualified.

HISTORY: CL 1948, 38.105.

ARTICLE V.

RESIGNATION AND LEAVE OF ABSENCE.

38.111 Resignation or leave of absence; notice required.

Sec. 1. No teacher on continuing tenure shall discontinue his services with any controlling board except by mutual consent, without giving a written notice to said controlling board at least 60 days before September first of the ensuing school year. Any teacher discontinuing his services in any other manner than as provided in this section shall forfeit his rights to continuing tenure previously acquired under this act.

HISTORY: CL 1948, 38.111.

38.112 Leave of absence; physical or mental disability.

Sec. 2. Any controlling board upon written request of a teacher may grant leave of absence for a period not to exceed 1 year, subject to renewal at the will of the board: Provided, That without request, leave of absence because of physical or mental disability may be granted by any controlling board for a period not to exceed 1 year: Provided further, That any teacher so placed on leave of absence shall have the right to a hearing on such unrequested leave of absence in accordance with the provisions for a hearing in article 4, section 4 of this act: Provided, That no leave of absence shall serve to terminate continuing tenure previously acquired under this act.

HISTORY: CL 1948, 38.112.

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ARTICLE VI.
RIGHT TO APPEAL.

38.121 Appeal to state tenure commission; notice, hearing.

Sec. 1. A teacher who has achieved tenure status may appeal any decision of a controlling board under this act within 30 days from the date of such decision, to a state tenure commission. The state tenure commission shall provide for a hearing to be held within 60 days from the date of appeal. Notice and conduct of such hearing shall be the same as provided in article 4, section 4 of this act, and in such other rules and regulations as the tenure commission may adopt.

HISTORY: CL 1948, 38.121;—Am. 1963, p. 422, Act 242, Eff. Sep. 6.

ARTICLE VII.
STATE TENURE COMMISSION.

38.131 State tenure commission; creation, membership; superintendent as ex-officio secretary; legal advisor.

Sec. 1. There is hereby created a state tenure commission of 5 members: 2 of whom shall be classroom instructors, 1 a member of a board of education of a graded or city school district, 1 a person not a member of a board of education or a teacher, and 1 a superintendent of schools. The superintendent of public instruction shall be ex officio secretary of the commission, and the attorney general shall assign to the commission an assistant who shall be legal advisor to the commission.

HISTORY: CL 1948, 38.131;—Am. 1963, p. 422, Act 242, Eff. Sep. 6.

38.132 Tenure commission; members, appointment, terms, vacancies.

Sec. 2. Within 30 days after the effective date of this act, the governor shall appoint the members of the tenure commission for the following terms: One for a term of 3 years, 1 for a term of 2 years and 1 for a term of 1 year. Each term shall begin on the first day of September. Immediately preceding the expiration of their respective terms the governor shall appoint succeeding members of the tenure commission for terms of 5 years. In the event of a vacancy on the tenure commission the governor shall immediately appoint a successor to complete the unexpired term.

HISTORY: CL 1948, 38.132.

38.133 Tenure commission; geographical qualifications of members.

Sec. 3. Not more than 1 member of the tenure commission shall be appointed from any 1 school district.

HISTORY: CL 1948, 38.133.

38.134 Tenure commission; qualifications of teacher member.

Sec. 4. Any teacher appointed to the tenure commission after September 1, 1938, must be on continuing tenure.

HISTORY: CL 1948, 38.134.

38.135 Tenure commission; membership of teacher not to affect tenure.

Sec. 5. Membership on the state tenure commission shall not adversely affect the status of the teacher's tenure with a controlling board.

HISTORY: CL 1948, 38.135.

38.136 Tenure commission; meetings.

Sec. 6. The tenure commission shall meet twice a year at stated times in the city of Lansing, and at such other times and in such other places as shall be determined by the commission.

HISTORY: CL 1948, 38.136.

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38.137 Tenure commission; powers.

Sec. 7. The tenure commission is hereby vested with such powers as are necessary to carry out and enforce the provisions of this act.

HISTORY: CL 1948, 38.137.

38.138 Tenure commission; members' compensation and expenses.

Sec. 8. The members of the state tenure commission shall receive $25.00 per day while hearing cases and shall be reimbursed for necessary traveling and other expenses incurred in the performance of the duties of the commission. The expenses of the state tenure commission shall be paid out of appropriations made by the legislature.

HISTORY: CL 1948, 38.138;—Am. 1965, p. 10, Act 8, Imd. Eff. Apr. 8.

38.139 Tenure commission; board of review for appeals; records.

Sec. 9. The tenure commission shall act as a board of review for all cases appealed from the decision of a controlling board. All records shall be kept in the office of the superintendent of public instruction.

HISTORY: CL 1948, 38.139;—Am. 1963, p. 423, Act 242, Eff. Sep. 6.

38.140 Tenure commission; organizational meeting, election of officers, rules and regulations.

Sec. 10. Within 30 days after the effective date of this act, the tenure commission shall hold a meeting in the city of Lansing for the purpose of organization and the election of a chairman and secretary, both of whom shall be members of the commission. The tenure commission shall draw up rules and regulations and shall have the power to amend same and to provide for the conduct of its affairs in such manner as shall be consistent with the provisions of this act.

HISTORY: CL 1948, 38.140.

38.141 Repealed. 1965, p. 11, Act 8, Imd. Eff. Apr. 8.

Section provided two-year appropriation for expenses of the tenure commission.

ARTICLE VIII.

DISTRICTS.

38.151 Application of act.

Sec. 1. This act shall apply to all school districts of the state.

HISTORY: CL 1948, 38.151;—Am. 1964, p. 8, Act 2, Eff. Aug. 28.

38.152 Repealed. 1964, p. 8, Act 2, Eff. Aug. 28.

Section provided that school district board shall notify the superintendent of public instruction of the results of the election.

ARTICLE IX.

PENALTY.

38.161 Violation of act; penalty.

Sec. 1. Failure of any member of a controlling board to comply with any provisions of this act shall be deemed a violation of the law and shall subject said member to the same penalty as prescribed for a violation of the general school law.

HISTORY: CL 1948, 38.161.

ARTICLE X.

INCONSISTENT ACTS.

Sec. 1. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

38.172 Teachers; waiver of rights in contracts prohibited.

Sec. 2. No teacher may waive any rights and privileges under this act in any contract or agreement made with a controlling board. In the event that any section or sec-

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tions of a contract or agreement entered into between a teacher and a controlling board make continuance of employment of such teacher contingent upon certain conditions which may be interpreted as contrary to the reasonable and just causes for dismissals, provided by this act, such section or sections of a contract or agreement shall be invalid and of no effect in relation to determination of continuance of employment of such teacher.

HISTORY: CL 1948, 38.172.

ARTICLE XI.

SEVERING CLAUSE.

Sec. 1. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

ARTICLE XII.

38.191 Effective date.

Sec. 1. This act shall take effect and be in force from and after September first, 1937.

HISTORY: CL 1948, 38.191.

Act 136, 1945, p. 170; Imd. Eff. May 4.

AN ACT to provide for retirement systems for Michigan public school employees, as defined herein; to combine and continue the operations of the Michigan teachers' retirement fund and public school teachers' retirement fund, as created under Act No. 184 of the Public Acts of 1937, as amended, and the Michigan non-teaching public school employees' retirement fund and the employees' retirement fund, as created under Act No. 56 of the Public Acts of 1941; to make annual appropriations of funds to assist in the maintaining of such retirement systems for Michigan public school employees; to provide retirement allowances for such public school employees; and to repeal all acts and parts of acts inconsistent herewith.

The People of the State of Michigan enact:

CHAPTER I.

38.201 Public school employees retirement act; definitions.

Sec. 1. As used in this chapter:

(a) "Retirement system" means the Michigan public school employees' retirement system provided for in this chapter.

(b) "Retirement board" means the board provided for in this chapter to administer such retirement system.

(c) "Member" means any Michigan public school employee as defined in subsection (f) of this section.

(d) "Original member" means a member employed in Michigan public schools prior to the establishment of this retirement system.

(e) "New member" means a member first employed in Michigan public schools after the establishment of this retirement system.

(f) "Public school employee" means all employees of a board of education or school board of any public school district. This term shall also include all employees of intermediate boards of education, all tax-supported community colleges, eastern Michigan university, central Michigan university, northern Michigan university, western Michigan university, Ferris state college and Michigan rehabilitation institute. It shall also include all persons holding Michigan teachers' certificates serving as superintendent of

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public instruction, executive secretary of the Michigan public school employees' retirement system, intermediate superintendent of schools, and all persons holding Michigan teachers' certificates performing educational service as employees of the superintendent of public instruction, the state board of control for vocational education, the Michigan public school employees' retirement board, the Michigan high school athletic association, the Michigan school for the deaf, the Michigan school for the blind, the boys' vocational school, the girls' training school, the Michigan reformatory, the state prison of southern Michigan, the state house of correction and branch prison, the Coldwater state home and training school, the Caro state hospital for epileptics, the Lapeer state home and training school, the Plymouth state home and training school and Newberry state hospital, but service at Newberry state hospital prior to July 1, 1956, shall be creditable service only if the amount of the accumulated contributions in the state employees' retirement system for such service is paid to the Michigan public school employees' retirement system. It shall include all employees of the Michigan technological university. Service at the Michigan technological university shall be creditable service only if the amount of the accumulated contributions in the state employees' retirement system for such service is paid to the Michigan public school employees' retirement system. It shall include all persons engaged in research studies relating to the general school problems of the public schools of the state, the funds for which are under the control of the state board of education. It shall include all employees of Ferris state college, but service thereat before July 1, 1951, shall be creditable as prior service or membership service only if any such employee has been employed at Ferris state college on a full-time basis for 2 or more years after May 17, 1949.

(g) "Annuity" means annual payments for life derived from the accumulated contributions of a member. All annuities shall be paid in equal monthly installments.

(h) "Pension" means annual payments for life derived from money provided by the state. All pensions shall be paid in equal monthly installments.

(i) "Retirement allowance" means the sum of the annuity and the pension.

(j) "Service" means service performed as a public school employee. In computing terms of service, a year shall be a legal school year at the time and place where said service was performed. The board shall allow credit as out of system service for service performed in other states if similar service performed in Michigan would be creditable, but no more than 1 year's service shall be counted for retirement purposes in any fiscal year. Where an employee serves on a part-time basis, the retirement board shall have the right to evaluate such service and determine the credit therefor. Not less than 150 days shall constitute a school year.

(k) "Prior service" means service performed prior to July 1, 1945.

(l) "Membership service" means service performed on or after July 1, 1945.

(m) "Out of system service" means service performed in other states in the United States or its territorial possessions, the public schools of the school district of the city of Detroit, the university of Michigan, Michigan state university, Wayne state university, and as a state employee under the provisions of Act No. 240 of the Public Acts of 1943, as amended, and service under section 14b of this chapter. Out of system service shall not be creditable toward retirement under this chapter if the member is or will be receiving a retirement allowance from another governmental unit in the same years of service.

(n) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the annuity accumulation fund, together with regular interest thereon.

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(o) "Regular interest" means interest at such rate or rates per annum, compounded annually as the retirement board shall from time to time determine, but, for the purposes of employee refunds, the interest rate payable shall not exceed 3% per annum, compounded annually.

(p) "Final average compensation" means the average of a member's compensations earned and received within a 5-year period beginning the first day of January, April, July or October and ending at, but not including, the same date 5 years later, in which his compensations were highest. If the 5-year period, which would otherwise be used, is interrupted for unpaid absence due to the member's own personal illness or accident, or leave for educational purposes, final average compensation shall be determined by dividing the compensations actually earned and received during such 5-year period by the years and fractions of a year to the nearest tenth of a year for which they were paid. The unpaid absence shall not exceed a total of 12 months, and shall be considered only if duly recorded and authorized on official school district records.

(q) "Compensation" means the remuneration earned by a member for service performed by him as a Michigan public school employee. In case a member's remuneration is not all paid in money, the retirement board shall fix the value of that part of his remuneration not paid in money. Compensation shall include, on a current basis, investments made in a tax sheltered annuity for a public school employee as remuneration for service under this chapter. Such remuneration shall be valued at the amount of money actually paid into the annuity. Compensation shall include all amounts deducted from the pay of a public school employee. Compensation shall exclude terminal payments for unused sick leave, annual leave or bonus payments. It shall exclude hospitalization insurance and life insurance premiums, and other fringe benefits paid by and from the funds of employers of public school employees, and remuneration paid for the specific purpose of increasing the final average compensation. Compensation for the last year of the period on which final average compensation is based shall not, for the purpose of computing final average compensation, include any amounts over the contract salary for the preceding year except increases provided by the normal salary schedule for the district or employing unit. The retirement board shall require a sworn affidavit that final compensation does not include any remuneration paid either directly or indirectly for actual or anticipated expenses.

(r) "Retirant" means any member who retires with a retirement allowance payable from funds of the retirement system.

(s) "Beneficiary" means any person, except a retirant, who is in receipt of a retirement allowance or other benefit payable from funds of the retirement system.

(t) "Social security date" means April 30, 1956.

HISTORY: Am. 1947, p. 363, Act 240, Eff. Oct. 11;—CL 1948, 38.201;—Am. 1951, p. 177, Act 147, Imd. Eff. Jun. 6;—Am. 1954, p. 460, Act 190, Imd. Eff. May 5;—Am. 1955, p. 393, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 274, Act 145, Imd. Eff. Apr. 16;—Am. 1958, p. 184, Act 165, Eff. Sep. 13;—Am. 1961, p. 345, Act 209, Eff. Sep. 8;—Am. 1963, p. 120, Act 102, Imd. Eff. May 9;—Am. 1965, p. 267, Act 167, Imd. Eff. Jul. 15;—Am. 1965, p. 659, Act 337, Imd. Eff. Jul. 23;—Am. 1968, p. 439, Act 256, Imd. Eff. Jul. 1.

CITED IN OTHER SECTIONS: Sections 38.201 to 38.234; 38.201 to 38.357 are cited in §§ 38.17, 38.382, 38.602, 38.853, and 38.1102.

38.201a Public school employees' retirement act; short title.

Sec. 1a. This act shall be known and may be cited as the "public school employees retirement act".

HISTORY: Add. 1968, p. 441, Act 256, Imd. Eff. Jul. 1.

38.202 Public school employees' retirement system; creation, administration.

Sec. 2. A Michigan public school employees' retirement system is hereby created for all public school employees of the state of Michigan. The administration and management of the retirement system, responsibility for making effective the provisions of

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this chapter, and the authority to make all rules and regulations necessary therefor are hereby vested in the retirement board.

HISTORY: CL 1948, 38.202;—Am. 1955, p. 394, Act 246, Imd. Eff. Jun. 22.

38.203 Public school employees' retirement board; creation, members, appointment, terms, vacancies.

Sec. 3. (a) There shall be a Michigan public school employees' retirement board consisting of the superintendent of public instruction and 6 other members appointed by the governor by and with the advice and consent of the senate. At least 1 of such members shall be a woman teacher, and at least 1 shall be a non-teaching public school employee. The number of non-teaching members of the retirement board shall at no time exceed the number of teaching members on the board. At least 1 member shall be a retired public school employee receiving an allowance under this chapter, and at least 1 member shall be a public member with experience in the insurance, actuarial or institutional investment field and neither a public school employee nor a member of the retirement system.

(b) The term of office of the members shall be 6 years. Any vacancy on the board shall be filled by the governor with the advice and consent of the senate for the unexpired term. A board member shall continue to hold office until his successor is appointed and has qualified.

HISTORY: Am. 1947, p. 364, Act 240, Eff. Oct. 11;—CL 1948, 38.203;—Am. 1955, p. 394, Act 246, Imd. Eff. Jun. 22;—Am. 1968, p. 33, Act 18, Eff. Nov. 15.

CITED IN OTHER SECTIONS: The above section is cited in § 16.206.

38.203a Retirement board; vacancies, appointment of retired employee member and public member.

Sec. 3a. The retired employee member shall be appointed to fill the first vacancy and the public member shall be appointed to fill the second vacancy on the board existing or occurring at or after the effective date of this act.

HISTORY: Add. 1968, p. 34, Act 18, Eff. Nov. 15.

38.204 Retirement board; oath of office, quorum, nonattendance at meetings.

Sec. 4. Board—oath of office—quorum—attendance at meetings. Each member of the retirement board, created by this chapter, upon his appointment, shall take an oath of office which shall be immediately filed in the office of the secretary of state. A majority of the retirement board shall constitute a quorum for the transaction of any business at any meetings of the board. Any member of the retirement board who fails to attend the scheduled meetings thereof for 3 consecutive months or longer, without valid excuse, shall be considered as having resigned from board membership and the retirement board shall declare his office vacated as of the date of adoption of a proper resolution.

HISTORY: CL 1948, 38.204.

38.205 Retirement board; members, compensation and expenses.

Sec. 5. Compensation of board members. The members of the board shall serve without compensation, but they shall be entitled to their expenses actually and necessarily incurred in attending meetings of the board and in performing required services as members thereof.

HISTORY: CL 1948, 38.205.

38.206 Retirement board; elected officers; actuary and other employees.

Sec. 6. The retirement board shall, by a majority vote, elect from its membership a president and a vice-president; shall employ an executive secretary, who shall act as secretary of the board, and shall fix his compensation; shall employ the services of an actuary; and shall employ, subject to rules and regulations of the civil service commis-

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sion, such medical, clerical, technical and administrative employees as are necessary for the proper operation of the retirement system.

HISTORY: CL 1948, 38.206;—Am. 1955, p. 395, Act 246, Imd. Eff. Jun. 22.

38.206a Retirement fund; payment to widows of unclassified employees.

Sec. 6a. Notwithstanding any existing limitation imposed by chapter 1 of this act relative to fixing the amount payable to the widow of a deceased unclassified employee for accumulated annual and sick leave, the auditor general, within 6 months after the effective date of this section, shall fix the amounts so payable and pay from the retirement fund as to any unclassified employee of the board who died during the calendar year 1955, but prior to June 30, 1955: Provided, That the amounts so fixed and payable shall equal the amounts which would have been payable from the retirement fund if the unclassified employee had been a classified civil service employee.

HISTORY: Add. 1956, p. 276, Act 145, Imd. Eff. Apr. 16.

38.207 Retirement board; powers and duties.

Sec. 7. Board powers. The retirement board shall make rules and regulations not inconsistent with the provisions of this chapter, which shall provide for the conduct of the meetings of the board, prescribe the manner of payments of contributions to the retirement fund and the payment of annuities, pensions, and allowances therefrom, and prescribe by regulation the duties of boards of education and other officers and persons in respect to contributions to the retirement fund. The retirement board shall adopt for the retirement system 1 or more mortality tables and may, from time to time, modify such tables or prescribe other tables to represent more accurately the experience of the retirement system. The board shall have the right to investigate all matters relating to the operation of this chapter, and for that purpose to subpoena witnesses and compel their attendance to testify before it. Any member of the board may administer oaths or affirmations to such witnesses.

HISTORY: CL 1948, 38.207.

38.208 State treasurer; ex-officio treasurer of retirement system, custodian of funds; investments, sale of bonds or securities, deposits.

Sec. 8. The state treasurer shall be ex-officio treasurer of the Michigan public school employees' retirement system and shall be the custodian of the funds thereof. The moneys belonging thereto shall be deposited by him in banks or trust companies, subject to the same provisions of law as regulate the deposit of state funds. The retirement board shall direct from time to time the investment of moneys in the retirement fund but each investment shall be subject to the approval of the state treasurer and such fund shall only be invested in bonds or other obligations of the United States, the state of Michigan, or of any county, city, village or school district of the state, or in mortgage bonds or notes insured by the federal housing administrator, or debentures insured by such administrator, or debentures issued by such administrator, or in bonds, notes, debentures or other obligations in which both principal and interest are insured or guaranteed by the federal government, or in savings shares of any building and loan or savings and loan association, either state or federally chartered, situated in this state, in an amount not to exceed the sum by which such association is insured by the federal savings and loan insurance corporation or its successor, or obligations of national mortgage associations created under the national housing act, and amendments thereto.

The retirement board may sell any of said bonds or securities, and the proceeds thereof shall be paid by the purchaser to the state treasurer upon delivery to him of said bonds or securities by the state treasurer.

The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and

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subject to all the provisions of law with respect to the deposit of state funds by such treasurer, and all interest earned by such portion of the said retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him and placed to the credit of the retirement fund.

HISTORY: CL 1948, 38.208;—Am. 1953, p. 129, Act 128, Imd. Eff. May 27.

38.209 State treasurer, executive secretary and retirement board employees; bonds required.

Sec. 9. Surety bond. The state treasurer shall give a separate and additional bond in such amount as may be fixed by the retirement board in the sum of not to exceed $100,000, which bond shall be approved by the auditor general and the attorney general and shall be conditioned for the faithful performance of his duties as custodian of the funds of the retirement system provided for herein. The executive secretary and all other employees of the Michigan public school employees' retirement fund board shall be bonded in such amount and in such manner as the retirement board shall prescribe. All such bonds shall be deposited with the secretary of state and kept in his office. The cost of all such bonds shall be paid out of the expense fund of the retirement board.

HISTORY: CL 1948, 38.209.

38.210 Retirement board members and employees; interest in investments prohibited.

Sec. 10. No employee shall gain from investments. Except as herein provided, no member or employee of the retirement board shall personally gain, directly or indirectly, from the profits of any investment made by the retirement board. No member or person connected with the said retirement board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the retirement board; nor shall any member or employee of the retirement board become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed of the retirement board.

HISTORY: CL 1948, 38.210.

38.211 Retirement board; warrants drawn on state treasurer for expenditures.

Sec. 11. The retirement board shall have power to draw its warrants upon the state treasurer, payable out of funds of the retirement system, for the payment of annuities and pensions and the refund of accumulated contributions as provided in this chapter; for the purchase of such securities as the retirement board shall have decided to purchase as in this chapter provided; and for the payment of salaries and other expenses necessary in the administration of said retirement system.

HISTORY: CL 1948, 38.211;—Am. 1955, p. 395, Act 246, Imd. Eff. Jun. 22.

38.212 Retirement system funds; creation, administration.

Sec. 12. The funds hereby created are the annuity accumulation fund, annuity reserve fund, pension accumulation fund, expense fund and general fund.

(a) The annuity accumulation fund shall be the fund in which shall be accumulated the contributions from the compensation of members for the purchase of annuities. The retirement board shall provide for the maintenance of an individual account with each member of the retirement system showing the amount of the member's contributions together with interest accumulations thereon. The contributions of a member returned to him upon his withdrawal from service, or paid to his estate, or designated beneficiary in event of his death, as provided in this act, shall be paid from the annuity accumulation fund. Any accumulated contributions forfeited by failure of a member, or his estate, to claim the same as provided for in this chapter shall be transferred from the annuity accumulation fund to the pension accumulation fund. The accumulated

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contributions of a member, upon his retirement, shall be transferred from the annuity accumulation fund to the annuity reserve fund.

(b) The annuity reserve fund shall be the fund from which shall be paid all annuities, or benefits in lieu thereof, because of which the reserves have been transferred from the annuity accumulation fund to the annuity reserve fund.

(c) The pension accumulation fund shall be the fund into which the appropriations of the state are paid. From this pension accumulation fund shall be paid all pensions to persons retired under chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, and chapter 1 of Act No. 56 of the Public Acts of 1941. Also from this pension accumulation fund shall be paid all refunds of contributions due to employees on the basis of payments made prior to the enactment of this act, as provided under chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, and chapter 1 of Act No. 56 of the Public Acts of 1941. Further, from this pension accumulation fund shall be paid all pensions, or benefits in lieu thereof, payable to members retired on or after July 1, 1945, under the provisions of this chapter. *Provided further,* That if no specific expense appropriation is authorized the retirement board shall have power to transfer from this pension accumulation fund to the expense fund an amount sufficient to pay the expenses of the administration of this chapter.

(d) The expense fund shall be the fund from which shall be paid the expenses of the administration of this chapter, exclusive of amounts payable as retirement allowances and other benefits provided for in this act. The legislature shall appropriate regularly moneys necessary to defray and cover the expenses of administering this chapter.

(e) The retirement board shall have the right to establish a general fund. Revenue not clearly payable to other funds shall be deposited in the general fund, and disbursements from this fund shall be made as authorized by the retirement board.

HISTORY: Am. 1947, p. 365, Act 240, Eff. Oct. 11;—CL 1948, 38.212.
NOTE: Act 184, 1937 and Act 56, 1941, were repealed by this act.
CITED IN OTHER SECTIONS: The above section is cited in § 38.387.

38.213 Repealed. 1965, p. 269, Act 167, Imd. Eff. Jul. 15.

Section prescribed membership in the retirement system.

38.214 Service credit for military service.

Sec. 14. Credit for military service. A member of the retirement system who was or shall be drafted, enlisted, inducted, or commissioned into military, naval, marine or other armed service of the United States government during time of war or emergency, or who shall be drafted or called into such armed service or emergency during time of peace, and within 24 months from the date of his honorable discharge or relief from active duty from such armed service shall resume employment as a public school employee, shall have all the time spent in such armed service credited to him as a member of the retirement system. During the period of such service of a member, his contributions to the annuity accumulation fund standing to his credit as of the last payroll date preceding his military service shall be accumulated at regular interest.

HISTORY: CL 1948, 38.214.

38.214a Federal social security old-age and survivors' insurance coverage; extension to public school employees.

Sec. 14a. (a) For the purpose of extending the provisions of the federal social security old-age and survivors' insurance program to Michigan public school employees who are and who become members of the Michigan public school employees' retirement system, all such public school employees shall be a coverage group: Provided, That separate coverage groups may be established for (1) the employees of Ferris institute, by action of its governing body, (2) the employees of the Michigan college of mining and technology who are members of the Michigan public school employees' re-

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tirement system, by action of the governing board of the Michigan college of mining and technology, (3) at the discretion of the state board of education, employees of the Michigan state normal college, central Michigan college of education, northern Michigan college of education, and western Michigan college of education may be considered to be 1 coverage group, or the employees of each such institution may be made a separate coverage group.

Plan 1 member.

(b) A member who is not or does not become covered under the federal social security old-age and survivors' insurance program on account of the same employment which entitles him to membership in the retirement system, established under this chapter, shall be a "plan 1 member", and the provisions of this chapter, except section 15b, shall be applicable as to him.

Plan 2 member.

(c) A member who is or becomes covered under the federal social security old-age and survivors' insurance program on account of the same employment which entitled him to membership in the retirement system, established under this chapter, shall be a "plan 2 member", and the provisions of this chapter, except section 15a, shall be applicable as to him.

HISTORY: Add. 1955, p. 395, Act 246, Imd. Eff. Jun. 22.

38.214b Credit for overseas service teaching American nationals in public schools.

Sec. 14b. A member who leaves public school work in Michigan under this chapter to perform services overseas for the United States government as a teacher of American nationals in public elementary or secondary schools and returns to Michigan public school work under this chapter within 24 months of the termination of the overseas service shall receive service credit toward retirement for the overseas service, if the member pays into the retirement fund for such service at double the amount required of members in this chapter for public school work in this state. The overseas service must be followed by 5 years of public school work in Michigan under this chapter.

HISTORY: Add. 1958, p. 182, Act 162, Eff. Sep. 13.

38.215 Service retirement allowance; service prerequisites.

Sec. 15. Any member or person who (1) has attained or attains age 55 years, and has 30 or more years of credited service as defined under this chapter of which at least 15 years were served as a Michigan public school employee, or (2) has attained or attains age 60 years and has 10 or more years of credited service as a Michigan public school employee, shall upon retirement from service be entitled to a retirement allowance provided for in section 15a of this chapter, if he is a plan 1 member, or as provided in section 15b of this chapter, if he is a plan 2 member: Provided, That, except as provided in section 17 of this chapter, a member must have served in Michigan under this chapter for at least 2 complete consecutive school years ended within the 10 years immediately preceding the effective date of his retirement. The equivalent of at least 2 complete school years within the 5 years immediately preceding the effective date of his retirement will be acceptable in lieu of 2 complete consecutive school years ended within the 10 years immediately preceding the effective date of his retirement, except that if such equivalent is used the minimum retirement allowance provisions of this chapter shall not apply.

At retirement the total service credited to a member shall include service of a state employee under the provisions of Act No. 240 of the Public Acts of 1943, as amended, on the same basis in all respects as though such service had been performed in public schools outside the state of Michigan: Provided, That the member relinquish all rights

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to retirement under the provisions of Act No. 240 of the Public Acts of 1943, as amended.

HISTORY: Am. 1947, p. 365, Act 240, Eff. Oct. 11;—CL 1948, 38.215;—Am. 1949, p. 488, Act 296, Eff. Sep. 23;—Am. 1952, p. 363, Act 220, Eff. Sep. 18;—Am. 1954, p. 461, Act 190, Imd. Eff. May 5;—Am. 1955, p. 395, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 276, Act 145, Imd. Eff. Apr. 16;—Am. 1958, p. 187, Act 165, Eff. Sep. 13;—Am. 1961, p. 347, Act 209, Eff. Sep. 8.

38.215a Service retirement allowance; plan 1 members, benefits.

Sec. 15a. Upon retirement from service as provided in section 15 after attaining age 60, a plan 1 member shall receive a service retirement allowance as follows:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A prior service pension which shall be equal to 1/60 of not to exceed $3,600.00 of his final average compensation for each year of prior service, with a maximum of 30 years as the total prior service creditable; and

(c) A membership service pension which shall be equal to 1/120 of not to exceed $4,800.00 of his final average compensation for each year of membership service: Provided, That no member shall be allowed to use more than 15 years of out-of-system service in computing his prior and membership service pension.

If the prior service plus the membership service exceeds 35 years, then the membership service credit shall be reduced so that the total service credited shall not exceed 35 years: Provided, That this reduction of service credit shall not apply to years of credit gained after July 1, 1954.

In no case after July 1, 1955, shall a person with 30 or more years of full-time service under this chapter and/or chapter 1 of prior retirement acts receive a total retirement allowance of less than $1,200.00 per year: Provided, That a person serving less than 30 years, but not less than 15 years, shall be entitled to a retirement allowance of not less than a retirement allowance which bears the same ratio to $1,200.00 as the total years of service of said person bears to 30 years, if said person satisfied the other conditions of this section and of sections 17 and 26 of this chapter: Provided, That no person retiring after July 1, 1954, shall receive an amount which shall be less per annum than an amount which is equal to $40.00 per annum multiplied by the total number of years of service credited to his account, not to exceed 30 years: Provided, That said minimum shall not exceed 75% of the member's final average compensation.

For original members, the total retirement allowance shall be as herein provided, except that it shall not be less than that provided for under chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, prior to the effective date of this act or less than provided in section 26 of this chapter.

(d) In the event a plan 1 member retires prior to his attainment of age 60 years, as provided in section 15 of this chapter, his pensions provided in paragraphs (b) and (c) of this section shall be reduced 1/2 of 1% for each completed month, and fraction of a month, within the period from the date of his retirement to the date he would attain age 60 years, and shall thereafter continue at that same percentage.

HISTORY: Add. 1955, p. 396, Act 246, Imd. Eff. Jun. 22;—Am. 1958, p. 187, Act 165, Eff. Sep. 13.

38.215b Service retirement allowance; plan 2 members, benefits.

Sec. 15b. Upon his retirement from service as provided in section 15 of this chapter, a plan 2 member shall receive a service retirement allowance which shall consist of the benefits provided in paragraphs (a), (b) and (c) of this section, subject to paragraph (d) of this section.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions standing to his credit in the annuity accumulation fund at the time of his retirement; and

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(b) A pension which when added to his annuity shall equal, but not exceed, the product of his total years, and fraction of a year, of credited service multiplied by the sum of 1% of the first $4,200.00 of his final average compensation and 1.5% of his final average compensation in excess of $4,200.00: Provided, That no member shall be allowed to use more than 15 years of out-of-system service in computing his pension.

(c) In the event a plan 2 member retires prior to his attainment of age 60 years as provided in section 15 of this chapter, his retirement allowance provided in paragraphs (a) and (b) of this section shall be reduced 1/2 of 1% for each completed month, and fraction of a month, within the period from the date of his retirement to the date he would attain age 60 years, and shall thereafter continue at that same percentage.

(d) In the event a plan 2 member, who has not acquired fully insured status under the federal social security act on account of his employment in Michigan as a public school employee, exclusive of social security credits earned outside of public school employment, retires, as provided in section 15 of this chapter, his retirement allowance provided in this section shall not be less than the retirement allowance computed according to section 15a of this chapter, increased 5%.

HISTORY: Add. 1955, p. 396, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 276, Act 145, Imd. Eff. Apr. 16;—Am. 1958, p. 188, Act 165, Eff. Sep. 13.

38.216 Disability retirement allowance; computation.

Sec. 16. Any member or person who has not satisfied the requirements of section 15 of this chapter, and who has served as a Michigan public school employee under this chapter and/or chapter 1 of prior retirement acts for a period of 10 or more years, and whom the retirement board finds to have become totally and permanently disabled while serving as a Michigan public school employee under this chapter, may be retired, and shall upon retirement for such disability receive a disability retirement allowance computed as provided in paragraphs (a) and (b) of this section.

(a) His disability retirement allowance, payable to the date he would have first satisfied the requirements for retirement as provided in section 15 of this chapter had he continued in service, shall be computed according to section 15a, paragraphs (a), (b) and (c) of this chapter, if he is a plan 1 member, or according to section 15b, paragraphs (a), (b) and (d) of this chapter, if he is a plan 2 member.

(b) His disability retirement allowance, payable from and after the date he would have first satisfied the requirements for retirement as provided in section 15 of this chapter had he continued in service, shall be computed according to section 15a, paragraphs (a), (b), (c) and (d) of this chapter, if he is a plan 1 member, or according to section 15b, paragraphs (a), (b), (c) and (d) of this chapter, if he is a plan 2 member.

The provisions of section 15a, paragraph (c) of this chapter shall be applicable to a disability retirant who retired prior to July 1, 1954.

HISTORY: CL 1948, 38.216;—Am. 1949, p. 490, Act 296, Eff. Sep. 23;—Am. 1952, p. 364, Act 220, Eff. Sep. 18;—Am. 1954, p. 462, Act 190, Imd. Eff. May 5;—Am. 1955, p. 397, Act 246, Imd. Eff. Jun. 22.

38.216a Disability retirement allowance; application, medical examinations required; discontinuance.

Sec. 16a. Application for disability retirement shall be made within 18 months after the applicant ceases to be a public school employee: Provided, That the retirement board may require any applicant for disability retirement to submit to a medical examination by 1 or more practicing physicians or medical officers designated by the retirement board at the time of application for retirement and at such subsequent periods during retirement as are deemed necessary for proof of continuance of disability. The retirement board shall have the right to discontinue a disability retirement allowance if medical examination reports indicate that the recipient is no longer disabled.

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The provisions of section 15a, paragraph (c) of this chapter shall be applicable to a disability retirant who retired prior to July 1, 1954.

HISTORY: Add. 1955, p. 397, Act 246, Imd. Eff. Jun. 22.

38.216b Credit for out-of-system service; contributions, refunds.

Sec. 16b. Except as otherwise provided in this chapter no member shall be entitled to a pension under any section of this chapter based upon out-of-system service until he has contributed to the retirement system created under this chapter an amount equal to the amount he would have contributed according to the schedule governing contributions in effect at the time of such service, had such service been performed under this retirement system, together with simple interest at such rate as the retirement board shall determine from time to time on each annual contribution, respectively, to the date such member came under the provisions of this chapter and makes full payment of such amount and interest and has 5 years of service in Michigan under this chapter following such out-of-system service. If a member who made payment for out-of-system service dies or withdraws from service before his retirement becomes effective such payment made by him shall be refunded to him or to his legal representative.

HISTORY: Add. 1955, p. 398, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 277, Act 145, Imd. Eff. Apr. 16;—Am. 1958, p. 188, Act 165, Eff. Sep. 13;—Am. 1961, p. 348, Act 209, Eff. Sep. 8.

38.217 Retirement allowance; payment after age 60 to employee retired before age 60.

Sec. 17. (1) Should any person who (a) has 15 or more years of credited service for service performed as a public school employee under this chapter, chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, or chapter 1 of Act No. 56 of the Public Acts of 1941, inclusive, and has attained age 50 years before leaving public school service, and his last service has been continuous for at least 2 complete consecutive school years, or (b) has 25 or more years of such credited service, in either case leave service before attaining age 60 years, he shall be entitled to receive a retirement allowance after attaining age 60 years upon his application therefor filed with the retirement board: Provided, That he leaves on deposit his accumulated contributions standing to his credit in the annuity accumulation fund.

Employment by university of Michigan, Michigan state university, Wayne state university.

(2) Any person who has 10 or more years of credited service for service performed as a Michigan public school employee under this chapter and leaves public school service under this chapter to become an employee of the university of Michigan, Michigan state university or Wayne state university and, for at least 2 complete consecutive school years, continues to be an employee of the university of Michigan, Michigan state university or Wayne state university until after he reaches age 50 and has at least 15 years of aggregate service as provided in this section shall be entitled, after attaining age 60 and on termination of such employment, to receive a retirement allowance based on his service under this chapter if his contributions have been left on deposit in the annuity accumulation fund or if contributions withdrawn before July 1, 1957, have been repaid with regular interest for the time they were withdrawn from the fund.

HISTORY: Am. 1947, p. 367, Act 240, Eff. Oct. 11;—CL 1948, 38.217;—Am. 1955, p. 398, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 277, Act 145, Imd. Eff. Apr. 16;—Am. 1957, p. 164, Act 142, Eff. Sep. 27;—Am. 1960, p. 41, Act 52, Eff. Aug. 17;—Am. 1961, p. 348, Act 209, Eff. Sep. 8.

38.217a Retirement system; reciprocity, service credits; retirement allowance.

Sec. 17a. Other provisions of this chapter notwithstanding, the provisions of this section shall apply for the purpose of continuity and preservation of credits, hereinafter

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referred to as reciprocity, in the case of employees transferring membership between the retirement system created by chapter 1 and chapter 2 of Act No. 136 of the Public Acts of 1945, as amended.

(a) For the purpose of this section:

(1) Reciprocal system shall mean the chapter 2 retirement system named above.

(2) Reciprocal service means service rendered in other than the chapter 1 system.

(3) Reciprocal benefit or reciprocal retirement allowance means a retirement allowance payable to a retirant or beneficiary by this chapter 1 retirement system upon payment of a retirement allowance by a reciprocal system.

(4) Final system means the system in which a person is a member at the time benefits become payable thereunder.

(b) Reciprocal service as certified to by reciprocal systems shall be combined with service under this chapter for the sole purpose of determining eligibility for a retirement allowance under this chapter under the following conditions:

(1) The last 5 years immediately preceding payment of a monthly retirement allowance shall have been in this system.

(2) The retirement allowance shall be based on credited service, the benefit formula, and other provisions of this chapter.

(3) Reciprocal service usable in computing a retirement allowance payable by a reciprocal system shall not be usable as credited service in this system.

(c) Upon receipt of a monthly retirement allowance from the final system, there shall be payable hereunder a monthly retirement allowance based on the service rendered as a member of this system under the following conditions:

(1) The former member shall have separated from service under this chapter after June 30, 1956.

(2) He shall not have withdrawn his accumulated deposits.

(3) In the case of service retirement, he shall be age 60 years or older.

(4) His retirement allowance shall be computed under the provisions of this chapter: Provided, That he shall have not less than 5 years of service under this chapter.

(5) The retirement board may establish a minimum amount for which a monthly check covering the provisions of this section shall be issued. If the monthly retirement allowance is less than this amount, the retirant or beneficiary may receive his retirement allowance semiannually or annually, as the retirement board shall determine.

(6) In the event of disability or death while in reciprocal service, a retirement allowance shall be payable as provided in sections 16 and 16a of this chapter, or as a survivor benefit as provided for in section 20 of this chapter.

(7) Only service performed in Michigan, under chapter 1 of this act, performed by persons while employed as public school employees as defined in section 1 (f) of this chapter shall be creditable for the purpose of paying a reciprocal benefit.

HISTORY: Add. 1956, p. 277, Act 145, Imd. Eff. Apr. 16;—Am. 1966, p. 33, Act 18, Imd. Eff. Apr. 13.

38.218 Retirement allowance; effective date.

Sec. 18. Each retirement allowance shall date from the first of the month following the month in which the applicant has satisfied the age and service requirements of this chapter and terminated his service, but not more than 12 months prior to the month in which the application was filed with the retirement board, except that the effective date of retirement for a person who elects to receive his retirement allowance under

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option 2 or 3 as provided in section 20 of this chapter shall be the first day of the month following that in which such option choice has been filed with the retirement board: Provided, That the applicant shall have satisfied the legal requirements for the retirement allowance at the time the application is filed.

HISTORY: CL 1948, 38.218;—Am. 1955, p. 396, Act 246, Imd. Eff. Jun. 22;—Am. 1958, p. 188, Act 165, Eff. Sep. 13;—Am. 1961, p. 349, Act 209, Eff. Sep. 8.

38.219 Retirement allowance; reduction on re-employment.

Sec. 19. If a person is receiving a retirement allowance or other benefit payable under the provisions of this chapter, as amended, or chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, or chapter 1 of Act No. 56 of the Public Acts of 1941, on account of either or both age and years of personal services performed, and becomes employed in any tax supported school or other public educational agency of a state in or territory of the United States, or in any employment covered by out of system service as defined in section 1 of this chapter, (1) in no case shall he be entitled to a new final average compensation or additional service credit under this retirement system, nor shall he pay additional contributions to this retirement system except for the social security contributions provided under this chapter, and (2) his retirement allowance shall be reduced by the amount that his earnings in a calendar year exceed the amount he is permitted to earn without a reduction of benefits under the federal social security act as of 1968.

HISTORY: Am. 1947, p. 367, Act 240, Eff. Oct. 11;—CL 1948, 38.219;—Am. 1951, p. 287, Act 207, Imd. Eff. Jun. 14;—Am. 1955, p. 396, Act 246, Imd. Eff. Jun. 22;—Am. 1958, p. 189, Act 165, Eff. Sep. 13;—Am. 1966, p. 36, Act 19, Imd. Eff. Apr. 13;—Am. 1968, p. 474, Act 276, Imd. Eff. Jul. 1.

38.220 Optional retirement allowances; nomination of joint beneficiary; surviving spouse, children.

Sec. 20. (a) Prior to the effective date of his retirement, but not thereafter, any member may elect to receive his benefit in a retirement allowance payable throughout his life called a regular retirement allowance; or he may elect to receive the actuarial equivalent of his regular retirement allowance, at the time of his retirement in a reduced retirement allowance payable throughout his life, and nominate a joint beneficiary, in accordance with the provisions of option 2 or 3 as hereinafter set forth.

Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board prior to the effective date of his retirement; or

Option 3. Upon his death, 1/2 of his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement board prior to the effective date of his retirement.

(b) Any member who continues as a Michigan public school employee on or after the date he either acquires 15 years of service credit, or becomes entitled to retire as provided in section 15 of this chapter, whichever occurs first, may, by written declaration duly executed and filed with the retirement board, in the manner and form prescribed by the retirement board, elect option 2 provided for in subdivision (a) of this section, and nominate a joint beneficiary whom the retirement board finds to be dependent upon said member for at least 50% of his support in the same manner as if he were then retiring from service, notwithstanding that he may not have acquired entitlement to service retirement as provided in section 15 of this chapter. In case said beneficiary dies, is divorced from, or ceases to be dependent upon the said member prior to the effective date of the said member's retirement or death, the said member's election of option 2 and nomination of joint beneficiary shall be automatically revoked and he may again elect the said option 2 and nominate a joint beneficiary whom the

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retirement board finds to be dependent upon the said member for at least 50% of his support at any time prior to, but not after, the effective date of his retirement. In the event any member, who has an option 2 election in force, as provided in this subdivision, shall die prior to the effective date of his retirement, his joint beneficiary shall, so long as he continues to be so dependent, receive the same retirement allowance as the said joint beneficiary would have been entitled to receive under the said option 2 if the said member had been regularly retired pursuant to the provisions of section 15 of this chapter the day preceding the date of his death, notwithstanding that he may not have acquired entitlement to service retirement.

(c) Any member who continues as a Michigan public school employee on or after the date he acquires 15 years of service credit, or any person who becomes entitled to retire as provided for in section 15 or 17 of this chapter, and who does not have an election of option 2 as provided in subdivision (b) of this section in force, and (1) dies prior to the effective date of his retirement, and (2) leaves a widow, or in the case of a female member leaves a husband whom the retirement board finds to be totally and permanently disabled and to have been dependent upon the said female member for at least 50% of his financial support, the said widow or dependent husband, as the case may be, shall receive a retirement allowance computed in the same manner, in all respects, as if the said member had (1) retired effective the day preceding the date of his death, (2) elected option 2 provided for in subdivision (a) of this section, and (3) nominated the said widow or dependent husband as joint beneficiary. Upon the remarriage or death of the said joint beneficiary, his retirement allowance shall terminate: Provided, That if the aggregate amount of retirement allowance payments received by said beneficiary is less than the accumulated contributions credited to the said member's account in the annuity accumulation fund at the time of the said member's death, the difference between his said accumulated contributions and the said aggregate [sic] amount of retirement allowance payments received by him shall be paid to the said member's legal representative. The provisions of this section shall apply in the case of any person otherwise entitled to the benefits hereof who died after May 27, 1953.

In the event a member who satisfies the other requirements of this subdivision (c) dies before retirement and there is no surviving spouse, his surviving child or children under age 18 years, each shall receive, until attainment of age 18 years, an allowance of an equal share of the retirement allowance which would have been paid to the spouse if living at the time of the member's death: Provided, That in no case shall the allowance payable to any such child exceed $1,200.00 per annum.

HISTORY: Am. 1947, p. 367, Act 240, Eff. Oct. 11;—CL 1948, 38.220;—Am. 1949, p. 490, Act 296, Eff. Sep. 23;—Am. 1953, p. 131, Act 129, Eff. Oct. 2;—Am. 1954, p. 463, Act 190, Imd. Eff. May 5;—Am. 1955, p. 398, Act 246, Imd. Eff. Jun. 22;—Am. 1961, p. 349, Act 209, Eff. Sep. 8.

38.220a Retirement allowance; retirement before age 65.

Sec. 20a. According to such rules and regulations as the retirement board shall from time to time adopt, any member who retires prior to his attainment of age 65 years and who has acquired fully insured status under the social security act on account of his public school employment and exclusive of social security credits earned outside of public school employment may elect to have his regular retirement allowance, provided for in section 15b of this chapter for a plan 2 member, equated on an actuarial basis to provide an increased retirement allowance payable to his attainment of age 65 years and a reduced retirement allowance payable thereafter. His increased retirement allowance payable to his attainment of age 65 years shall approximate the sum of his reduced retirement allowance payable after his attainment of age 65 years and his estimated social security primary insurance amount.

HISTORY: Add. 1955, p. 400, Act 246, Imd. Eff. Jun. 22;—Am. 1958, p. 189, Act 165, Eff. Sep. 13.

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38.221 Annuity accumulation fund; payroll deduction of contributions; members' agreement presumed.

Sec. 21. (a) Each public school employee, as defined in this chapter, shall, to the social security date, contribute 5% of the first $4,800.00 of his annual compensations to the annuity accumulation fund. From and after the social security date, each plan 1 member shall contribute 5% of the first $4,800.00 of his annual compensations to the annuity accumulation fund, and a plan 2 member shall contribute to the said fund 3% of the first $4,200.00 of his annual compensations plus 5% of his annual compensations in excess of $4,200.00; and the contributions for social security provided for in Act No. 205 of the Public Acts of 1951, as amended, being sections 38.851 to 38.871, inclusive, of the Compiled Laws of 1948; said contributions to be made so long as he remains a member in employment coming under the provisions of this chapter. Public school authorities and other public officials responsible for making up the payrolls of public school employees shall deduct from the compensation of each member, on each and every payroll, for each and every payroll period subsequent to the date he becomes a member the contributions provided for herein. The said contributions shall be made notwithstanding that the minimum compensation provided by law is thereby changed. Each and every member shall be deemed to agree to the contributions provided for herein. The said contributions shall be forwarded to the office of the retirement board at Lansing in the manner prescribed by the retirement board. When made, the said contributions of each member shall be credited to his individual account in the annuity accumulation fund.

Penalty for noncompliance by school authorities.

If the responsible school authorities of any school district fail to comply with the provisions of this chapter, any penalty due and payable to the social security administration because of such failure shall be charged against and paid by such school district.

Withholding state aid funds.

The superintendent of public instruction shall withhold payment of any and all state aid funds due under Act No. 238 of the Public Acts of 1955, being sections 388.51 to 388.95, inclusive, of the Compiled Laws of 1948, to any school district the officers of which shall fail to comply with the provisions of this chapter upon written notice of such failure given by the executive secretary of the retirement board.

Return of supplemental contributions.

(b) Such supplemental contributions as have been made by members of the retirement system shall be returned to them.

HISTORY: CL 1948, 38.221;—Am. 1954, p. 464, Act 190, Imd. Eff. May 5;—Am. 1955, p. 400, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 278, Act 145, Imd. Eff. Apr. 16.

38.222 Withdrawal of member before retirement; refund of contributions; restoration on re-employment.

Sec. 22. Should a member cease to be a public school employee before becoming eligible for a retirement allowance as provided in this chapter, he shall be paid, except as otherwise provided in this chapter, all of the accumulated contributions standing to his credit in the annuity accumulation fund, together with 75% of the contributions, without interest, made under the provisions of chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, or chapter 1 of Act No. 56 of the Public Acts of 1941, and he shall forfeit any prior service and membership service credited to him upon payment of such refund. Such refund shall be payable notwithstanding any time limit for application contained in prior retirement acts. Any person who has withdrawn his contributions from the annuity accumulation fund, as provided in this chapter, and who

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again becomes a member, may restore to the annuity accumulation fund such contributions previously withdrawn by him.

HISTORY: CL 1948, 38.222;—Am. 1951, p. 287, Act 207, Imd. Eff. Jun. 14;—Am. 1955, p. 400, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 6, Act 4, Eff. Aug. 11.

38.223 Death before retirement; refund of contributions.

Sec. 23. (a) Should a member die before his retirement becomes effective, his accumulated contributions standing to his credit in the annuity accumulation fund, at the time of his death, together with 75% of the contributions, without interest, made by him under chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, or chapter 1 of Act No. 56 of the Public Acts of 1941, shall be paid, except as otherwise provided in this chapter, to such person or persons as he shall have nominated by written designation, duly executed and filed with the retirement board. If there be no such designated person or persons surviving the said member, such amount or amounts shall be paid to his legal representative.

(b) In the event a retirant dies before he has received in retirement allowance payments, an aggregate amount equal to the sum of his accumulated contributions standing to his credit in the annuity accumulation fund at the time of his retirement and 75% of the contributions, without interest, he made under chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, or chapter 1 of Act No. 56 of the Public Acts of 1941, the difference between the said sum of his contributions and the said aggregate amount of retirement allowance payments received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the retirement board. If there be no such designated person or persons surviving the said retirant, such difference, if any, shall be paid to his legal representative. No benefits shall be paid under this paragraph on account of the death of a retirant if he elected option 2 or 3, as provided for in this chapter.

HISTORY: Am. 1947, p. 367, Act 240, Eff. Oct. 11;—CL 1948, 38.223;—Am. 1954, p. 465, Act 190, Imd. Eff. May 5;—Am. 1955, p. 401, Act 246, Imd. Eff. Jun. 22;—Am. 1961, p. 350, Act 209, Eff. Sep. 8.

38.223a Neighborhood youth corps programs; exclusion from act.

Sec. 23a. Notwithstanding any other provision of this chapter, the term "employee" does not include a person enrolled in neighborhood youth corps programs operated with funds from the federal office of economic opportunity.

HISTORY: Add. 1968, p. 273, Act 184, Imd. Eff. Jun. 20.

38.224 Withholding refund of contributions.

Sec. 24. The retirement board may, in its discretion, withhold payment of all or part of a member's accumulated contributions for not more than 6 months after he has ceased to be an employee.

HISTORY: CL 1948, 38.224;—Am. 1955, p. 401, Act 246, Imd. Eff. Jun. 22.

38.225 Exemption of benefits from taxation, execution, bankruptcy; assignment.

Sec. 25. A pension, an annuity, or retirement allowance, any optional benefit, or any other benefits accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever; and the right of a member to a pension, an annuity, or retirement allowance, any optional benefit, or any other benefits accrued or accruing to any such member or beneficiary under the provisions of this chapter shall be unassignable except as in this chapter specifically provided.

HISTORY: CL 1948, 38.225;—Am. 1955, p. 401, Act 246, Imd. Eff. Jun. 22.

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38.226 Transfer of certain property and funds to retirement system; retirement allowances, recomputation; validation of retirement board's acts; repayment of refunds.

Sec. 26. (a) All moneys, credits, and other property belonging to the retirement funds created under chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, or chapter 1 of Act No. 56 of the Public Acts of 1941, shall on the day this act takes effect be transferred to and become a part of the retirement system hereby created. Unless otherwise directed by the retirement board, such moneys shall be transferred to the general fund provided for in section 12 of this chapter.

(b) All records, books and papers, together with all office furniture, fixtures and supplies belonging to the teachers' retirement fund board, created under chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, shall be turned over to and become the property of the Michigan public school employees' retirement system created by this chapter.

(c) The annuities and benefits of all persons who are receiving or are entitled to receive annuities or benefits under chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, or chapter 1 of Act No. 56 of the Public Acts of 1941, or under this chapter, shall be continued and paid at the same rates effective on July 1, 1950, or on the dates of their respective retirements subsequent to July 1, 1950, unless hereafter expressly changed by law: Provided, That effective July 1, 1956, the retirement allowances of persons retired before July 1, 1945, shall be recomputed so that they shall equal 1/60 of final average compensation for each year of credited service, not to exceed 30 years: Provided, That for this purpose final average compensation shall not exceed $3,600.00: Provided further, That this subsection shall not diminish the minimum retirement allowances to which such persons are otherwise eligible under the provisions of this act.

(d) All acts and doings of the teachers' retirement fund board, created by Act No. 184 of the Public Acts of 1937, as amended, done and performed pursuant to that act in the administration of said retirement fund are hereby declared regular and valid.

(e) Any member who has been paid a refund of his accumulated contributions as provided for in this chapter or in section 12 of chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, and/or chapter 1 of Act No. 56 of the Public Acts of 1941, who shall again thereafter become a member of the retirement system shall be entitled to pay into the retirement system, prior to the effective date of his retirement, the amount so paid to him, together with regular interest on said amount, for the time such amount was withdrawn from the fund. Upon such payment in full, said member shall be allowed credit for service previously forfeited by him: Provided, That such a member must serve for a period of not less than 2 complete consecutive school years before credit may be allowed for the service upon which the repayment is based.

HISTORY: Am. 1947, p. 368, Act 240, Eff. Oct. 11;—CL 1948, 38.226;—Am. 1951, p. 287, Act 207, Imd. Eff. Jun. 14;—Am. 1955, p. 401, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 279, Act 145, Imd. Eff. Apr. 16.

38.227 Pension reserves; computation, state contributions.

Sec. 27. Upon the basis of such mortality and other experience tables, and regular interest, as the retirement board shall from time to time adopt, the actuary designated by the retirement board shall compute the pension reserves for pensions being paid retirants and beneficiaries under this chapter, and the pension reserves covering service rendered and to be rendered by members of the retirement system. The said pension reserves so computed shall be financed by annual state contributions determined according to paragraphs (a), (b) and (c) of this section.

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Members' current service.

(a) The contributions by the state for members' current service shall be a per cent of their aggregate annual compensations which will produce an amount which if paid annually during their future service will be sufficient to provide the reserves, at the time of their retirements, for the portions of the pensions to be paid them based upon their future service; and

Members' accrued service.

(b) The contributions for members' accrued service shall be a per cent of their aggregate annual compensations which will produce an amount which if paid annually over a period of years to be determined by the retirement board, not to exceed 50 years, will amortize, at regular interest, the unfunded pension reserves for the accrued service portions of the pensions to which they may become entitled; and

Pensions being paid retirants and beneficiaries.

(c) The contributions by the state for pensions being paid retirants and beneficiaries shall be a per cent of the aggregate annual compensation of members which will produce an amount which if paid annually over a period of years to be determined by the retirement board, not to exceed 25 years, will amortize, at regular interest, the unfunded pension reserves for pensions being paid retirants and beneficiaries.

Pension accumulation fund; social security taxes; appropriations; certification of sums due retirement systems; credit to funds.

(d) The legislature shall annually, or periodically, as determined by the legislature, appropriate to the retirement system, established under this chapter, the per cents determined in paragraphs (a), (b) and (c) of this section and the amounts required for employer's social security taxes for the members of the retirement system. The appropriation shall be paid from the state school aid fund for all members of the retirement system who are employees of a board of education or a school board of any public school district and from the general fund of the state for all other public school employees as defined in subsection (f) of section 1 of this chapter. The appropriations when made shall be credited to the pension accumulation fund.

On or before July 31 of each year the retirement board shall certify to the superintendent of public instruction the aggregate compensations estimated to be paid public school employees under chapter 1 of this act for the current fiscal year having begun July 1 and ending the next following June 30.

On the basis of this estimate the superintendent of public instruction shall compute the sum due and payable to the chapter 1 retirement system at the rate of 11% of the aggregate compensations of school board employees as provided in this subsection, and shall certify this amount to the state treasurer.

The state treasurer shall make payment of the amount certified to him by the superintendent of public instruction in 12 equal monthly installments.

Not later than 90 days after termination of each fiscal year the retirement board shall certify to the superintendent of public instruction the actual aggregate compensations paid to public school employees under chapter 1 of this act during the preceding fiscal year. Upon receipt thereof he shall compute any adjustment required due to any difference between the estimated and the actual aggregate compensations and cause any adjustment to be either added to or subtracted from amounts due the chapter 1 retirement system.

The superintendent of public instruction may require such evidence of correctness and/or may conduct such audit of the aggregate compensation as he considers necessary to establish their correctness.

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Expense fund; administrative expenses, appropriations.

(e) In addition to the appropriation hereinbefore provided for, the legislature shall annually appropriate an amount sufficient to cover the administrative expenses of the retirement system. When paid, the said amount shall be credited to the expense fund.

HISTORY: Am. 1947, p. 368, Act 240, Eff. Oct. 11;—CL 1948, 38.227;—Am. 1954, p. 465, Act 190, Imd. Eff. May 5;—Am. 1955, p. 402, Act 246, Imd. Eff. Jun. 22;—Am. 1966, p. 11, Act 3, Eff. Jul. 1.

CITED IN OTHER SECTIONS: The above section is cited in § 38.387.

38.227a State appropriations for state employee members; employer contributions; federal grants.

Sec. 27a. All other provisions of this chapter notwithstanding, any annual appropriations made by the legislature from the general fund beginning with the 1955-56 fiscal year for state employees who are members of this retirement system shall be a percentage of the aggregate annual compensation paid state employees who are members of the Michigan public school employees' retirement fund as provided in section 1(f) of this chapter who are not employed by a board of education or a school board, but who are employed by the state of Michigan in departments or by boards, institutions and colleges under the control of other boards of control, except Michigan state university, the university of Michigan and Wayne state university, equal to the same percentages provided in this chapter from school aid funds for members of this retirement system who are employees of a board of education or school board. Beginning with the 1961-62 fiscal year, eastern Michigan university, central Michigan university, northern Michigan college, western Michigan university, Ferris institute, Michigan college of mining and technology, and the state board of education, shall pay the employer's share of the retirement contribution for their employees working on self-liquidating projects from income from such operations. The Michigan high school athletic association shall pay the employer's share of the retirement contribution of their employees from income derived from operations. Beginning with the 1962-63 fiscal year, all state agencies, boards and commissions shall pay the employer's share of the retirement contribution for their employees working on programs financed by the federal government from the grants received from the federal government in the same proportion as such employees' salaries are paid from the grants received from the federal government. Employer's contributions shall be at the same percentage provided in this chapter for employees under the retirement system whose salaries and wages are paid from the appropriations set up by the legislature.

HISTORY: Add. 1958, p. 189, Act 165, Eff. Sep. 13;—Am. 1961, p. 62, Act 65, Eff. Sep. 8;—Am. 1962, p. 112, Act 123, Eff. Mar. 28, 1963.

38.227b Supplemental retirement allowances; payment, reversion of unused funds.

Sec. 27b. There shall be payable to persons retired under the provisions of chapter 1 of Act No. 184 of the Public Acts of 1937, as amended, or chapter 1 of Act No. 56 of the Public Acts of 1941, as amended, or section 15a of this chapter, as amended, supplemental retirement allowances so that their total allowances shall be $1,800.00 per year for persons with 30 or more years of full time service under this chapter or chapter 1 of prior retirement acts. A person serving less than 30 years, but not less than 10 years, shall be entitled to a retirement allowance which bears the same ratio to $1,800.00 as the total years of service of the person bears to 30 years if the person satisfies the other conditions of this chapter. The reductions provided in subsection (d) of section 15a and in section 20 of this chapter shall apply to the supplemental allowances. This section shall not diminish the retirement allowances to which such persons are otherwise eligible under the provisions of this act.

The supplemental retirement allowances shall be paid only during those fiscal years for which funds are provided by the legislature out of general funds of the state for this specific purpose. Any sums provided by the legislature for payment of the supple-

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mental retirement allowances remaining unused at the end of the fiscal year shall revert to the general fund.

HISTORY: Add. 1965, p. 661, Act 337, Imd. Eff. Jul. 23.

38.227c Final average compensation; redetermination.

Sec. 27c. Any retirant whose final average compensation has been determined by the board and whose 5-year period was interrupted by unpaid absence due to illness, accident or leave for educational purposes may within 6 months after the effective date of this act petition the board in writing for a redetermination of final average compensation, and final average compensation for such retirant shall be determined by dividing the compensation actually earned and received during such 5-year period by the years and fractions of a year to the nearest tenth of a year for which they were paid. The board shall redetermine such final average compensation and the retirant shall receive a retirement allowance based upon such final average compensation as redetermined hereunder to begin on the first day of the month of the application for such redetermination.

HISTORY: Add. 1965, p. 661, Act 337, Imd. Eff. Jul. 23.

Sec. 28. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Sec. 29. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACTS REPEALED: Act 184, 1937, as amended by Act 56, 1939 and Act 163, 1941; Act 56, 1941.

38.230 Effective date.

Sec. 30. Effective date. This act shall take effect on the first day of July, 1945.

HISTORY: CL 1948, 38.230.

38.231 School districts of first class exempt from act.

Sec. 31. This chapter, except as specifically otherwise provided in this chapter, shall not apply to any school district of the first class as defined by the school code.

HISTORY: CL 1948, 38.231;—Am. 1955, p. 404, Act 246, Imd. Eff. Jun. 22.

38.232 Federal social security old-age and survivors' insurance; payment; employer's retroactive social security taxes, payment.

Sec. 32. (a) For each public school employee who is a member of the retirement system and who becomes covered under the federal social security old-age and survivors' insurance program on account of his employment as a public school employee, the social security taxes to be paid by him shall be deducted and paid from his individual balance in the annuity accumulation fund. In the event the member's said balance is not sufficient to make such payment, his public employer shall promptly collect from the said member and pay to the retirement system the amount of such insufficiency.

(b) The employer's retroactive social security taxes and all future employer social security taxes shall be paid from the pension accumulation fund and the said fund shall be reimbursed by appropriation to be made by the legislature.

HISTORY: Add. 1955, p. 404, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 280, Act 145, Imd. Eff. Apr. 16.

38.233 Effective date of amendatory act; referendum on coverage.

Sec. 33. The provisions of this amendatory act relating to social security shall become effective as of the date the governor certifies to the secretary of health, education and welfare that the members of 1 or more coverage groups within the retirement system membership had voted in favor of social security coverage at an election held in conformance with the 1954 amendments to section 218 (d) of title II of the federal social security act, and as provided in Act No. 205 of the Public Acts of 1951, as amended, being sections 38.851 to 38.870, inclusive, of the Compiled Laws of 1948.

HISTORY: Add. 1955, p. 404, Act 246, Imd. Eff. Jun. 22.

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38.234 Federal social security; extension of coverage to public school employees.

Sec. 34. On behalf of the state of Michigan the retirement board is hereby authorized to enter into an agreement with the state agency, designated in Act No. 205 of the Public Acts of 1951, as amended, to extend the social security old-age and survivors' insurance coverage to eligible public school employees who are members of the retirement system established under this chapter. The retirement board acting under the provisions of this section shall in nowise be construed to be a political subdivision of the state and the plan and agreement entered into with the department named in Act No. 205 of the Public Acts of 1951, as amended, shall contain no provision for deposits guaranteeing payment of the quarterly contributions, and a provision for administrative cost only to the extent of actual additional expense to the department.

HISTORY: Add. 1955, p. 404, Act 246, Imd. Eff. Jun. 22;—Am. 1956, p. 280, Act 145, Imd. Eff. Apr. 16.

CHAPTER II.

38.301 School districts of first class; public school teachers' retirement fund, continuation.

Sec. 1. School districts of the first class. When this act becomes effective, every school district of the first class, as defined and governed by the provisions of chapter 8, part 1, of Act No. 319 of the Public Acts of 1927, as amended, and having in existence a public school teachers' retirement fund, shall continue the same under the provisions of this chapter; and any school district becoming a school district of the first class under the provisions of said chapter 8, part 1, of said Act No. 319 of the Public Acts of 1927, as amended, not having such public school teachers' retirement fund may establish such fund in accordance with the provisions of this chapter. Every school district having in existence a teachers' retirement fund, and a teachers' retirement fund board, or board of trustees, administering the same under and by virtue of the provisions of Act No. 152 of the Public Acts of 1923, as amended, shall, when this act becomes effective, continue the same under the provisions of this chapter.

HISTORY: CL 1948, 38.301.

NOTE: Ch. 8, above referred to, is Compilers' § 348.1 et seq., which was repealed. Act 152, 1923, was CL 1929, 7754-7763, repealed by Act 184, 1937, in turn repealed and superseded by this act.

CITED IN OTHER SECTIONS: Sections 38.301 to 38.355 are cited in §§ 38.371, 38.853, and 390.647.

38.302 School districts of first class; employees' retirement system, establishment.

Sec. 2. A retirement system for the employees of the board of education of a school district of the first class, hereinafter called the retirement system, is hereby established for the purpose of providing retirement allowances and certain death benefits for the employees of said board of education. The official name of the retirement system shall be "the employes retirement system of the school district of the city of ....."

HISTORY: CL 1948, 38.302;—Am. 1956, p. 258, Act 144, Imd. Eff. Apr. 16.

38.303 Retirement commission; creation, functions.

Sec. 3. Retirement commission created. There is hereby created a retirement commission (hereinafter referred to as the retirement commission) in whom is vested the general administration, management and responsibility for the proper operation of the retirement system and for making effective its provisions. The retirement commission shall be organized immediately after 5 commissioners, provided for in this chapter, have qualified.

HISTORY: CL 1948, 38.303.

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38.304 Retirement commission; membership, terms, compensation and expenses.

Sec. 4. The retirement commission shall consist of 9 commissioners as follows: the superintendent of schools of the school district; 3 members of the board of education elected by the board of education; 3 teacher members to be elected by the teacher members of the retirement system; and 2 nonteacher members to be elected by the nonteaching members of the retirement system. The regular term of office of elected commissioners shall be 3 years and shall be staggered according to the terms of office resulting from the initial election of 1946. Not more than 1 teacher commissioner and not more than 1 nonteacher commissioner shall be elected in any one year.

The members of the commission shall serve without compensation but shall be entitled to their expenses resulting from their commission duties.

HISTORY: CL 1948, 38.304;—Am. 1951, p. 275, Act 204, Imd. Eff. Jun. 14;—Am. 1954, p. 398, Act 170, Eff. Jul. 1;—Am. 1956, p. 258, Act 144, Imd. Eff. Apr. 16;—Am. 1965, p. 62, Act 43, Imd. Eff. May 25.

38.305 Repealed. 1956, p. 274, Act 144, Imd. Eff. Apr. 16.

Section provided for appointment of retirement commissioners and initial term of office.

38.306 Retirement commissioners; election, regular terms of office, recall; vacancies filled by election.

Sec. 6. (a) Elections of teacher and non-teacher commissioners shall be conducted according to rules and regulations adopted and published in advance of the election by the retirement commission. The regular term of office of such teacher and non-teacher commissioners shall be 3 years.

(b) Upon filing with the retirement commission petitions stating the reason for recall of a commission member elected by members of the retirement system and signed by 25 per cent of the number of electors who voted at the preceding election (1) for teacher member in the case of recall of a teacher commissioner, or (2) for non-teacher member in the case of recall of a non-teacher commissioner, the retirement commission shall, within 60 days following filing of petitions bearing the required number of signatures, submit the request for recall to the members of the retirement system in the same manner as provided for a regular election.

In the event a majority of those voting shall favor recall of the said commissioner, his office shall be declared vacant as of the date of the regular meeting of the commission next following the date of the balloting.

Such vacancy shall be filled at the next regular election if such vacancy occurs not less than 3 months or more than 6 months preceding the date of said regular election; otherwise the commission shall arrange for a special election to be held within 3 months after said vacancy occurs.

HISTORY: CL 1948, 38.306;—Am. 1951, p. 275, Act 204, Imd. Eff. Jun. 14.

38.307 Retirement commission; vacancies filled by appointment.

Sec. 7. Filling of a vacancy on commission. If a vacancy occurs in the office of commissioner through dismissal from service, retirement, or for other reasons, the vacancy shall be filled within 60 days of the date of the vacancy in the following manner: if the office of commissioner be vacated by a teacher member, the retirement commission, by vote of the retirement commission, shall appoint a teacher, who is a member of the retirement system, to serve until the next regular election for a teacher member of the retirement commission; if the office of commissioner be vacated by a non-teacher member the retirement commission, by vote of the retirement commission, shall appoint a non-teacher, who is a member of the retirement system to serve until the next regular election for a non-teacher member of the retirement commission.

HISTORY: CL 1948, 38.307.

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38.308 Retirement commission; meetings, procedural rules, record, quorum.

Sec. 8. (a) The retirement commission shall hold meetings regularly, at least 1 in each month, and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings.

(b) Each commissioner shall be entitled to 1 vote in the meetings of the retirement commission. Five commissioners, at least 3 of whom shall be employee members, shall constitute a quorum and a majority of concurring votes shall be necessary for a decision by the commissioners at any meeting of the retirement commission.

HISTORY: CL 1948, 38.308;—Am. 1951, p. 275, Act 204, Imd. Eff. Jun. 14.

38.309 Retirement commission; officers and employees.

Sec. 9. (a) The retirement commission shall elect from its members a chairman and a vice-chairman.

(b) The retirement commission shall appoint a secretary of the retirement system.

(c) The city treasurer, ex officio, shall be treasurer of the retirement system and the custodian of its funds.

(d) The legal advisor of the retirement commission shall be the legal counsel of the board of education or such other legal counsel as the retirement commission may from time to time engage.

(e) The retirement commission shall appoint an actuary who shall be the technical advisor to the retirement commission.

(f) The retirement commission shall engage the services of a physician or physicians, who shall not be eligible to participate in the benefits provided by the retirement system and who shall be directly responsible to the retirement commission.

(g) The physician or physicians engaged shall make such medical examinations of members or beneficiaries referred to them by the retirement commission as are required under the provisions of this retirement system and shall investigate all essential statements and certificates of a medical nature by or on behalf of a member or beneficiary in connection with an application for disability retirement or accidental death benefits, or for a re-examination of a disability beneficiary and shall report in writing to the retirement commission their conclusions on such medical matters referred to him.

Any reference to medical director in any section of this chapter shall mean such physician or physicians as shall be engaged by the retirement commission.

HISTORY: CL 1948, 38.309;—Am. 1951, p. 276, Act 204, Imd. Eff. Jun. 14;—Am. 1962, p. 564, Act 239, Eff. Mar. 28, 1963.

38.310 Retirement commission; responsibility for data for actuarial valuation of retirement system; annual financial reports to board of education.

Sec. 10. (a) The retirement commission shall keep, or cause to be kept, in convenient form, such data as shall be necessary for an actuarial valuation of the various funds of the retirement system and for checking and compiling the experience of the retirement system.

(b) The retirement commission shall render a report to the board of education on or before the 15th day of January showing the fiscal transactions of the retirement system for the fiscal year ending the preceding 30th day of June, the amounts of accumulated cash and securities in the various funds of the retirement system, and the last balance sheet showing the financial condition of the retirement system.

HISTORY: CL 1948, 38.310;—Am. 1951, p. 276, Act 204, Imd. Eff. Jun. 14;—Am. 1956, p. 259, Act 144, Imd. Eff. Apr. 16.

38.311 Retirement system; definitions.

Sec. 11. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

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(a) "Teacher" means any person employed by the board of education or the retirement commission (1) who is engaged in teaching, or (2) who is engaged in administering and supervising teaching, or (3) who is under a teacher's contract with the board of education.

(b) "Non-teacher" means any person employed by the board of education or the retirement commission who is not a teacher, as defined in subsection (a) of this section. In all cases of doubt, the retirement commission shall decide who is a teacher or a non-teacher within the meaning of this chapter.

(c) "Board of education" means the board of education of the Michigan school district of the first class.

(d) "City" means the city wherein the Michigan school district of the first class is located.

(e) "Credited service" means the total of the prior service and the membership service credited a member to the extent provided in this chapter.

(f) "Member" means any person included in the membership of this or a predecessor retirement system.

(g) "New member" means any member without prior service credit.

(h) "Original member" means any member with prior service credit.

(i) "Prior service" means service rendered to the board of education or the retirement commission prior to July 1, 1945.

(j) "Membership service" means service rendered to the board of education or the retirement commission after June 30, 1945.

(k) "Service" or "board of education service" means service rendered by a teacher or non-teacher.

(l) "Retirant" means a member of this or predecessor retirement system who is in receipt of a retirement allowance provided by this chapter. "Beneficiary" means any person, except a retirant, who is in receipt of a retirement allowance, or other benefit provided by this chapter on account of credited service rendered by another person.

(m) "Regular interest" shall be interest at such rate or rates per annum compounded annually, as the retirement commission shall from time to time determine, but, for the purposes of employee refunds, the interest rate payable shall not exceed 3% per annum, compounded annually.

(n) "Final average compensation" means the average of the highest annual compensations of a member during a period of 5 consecutive years of his credited service contained within his 10 years of credited service immediately preceding his retirement. If he has less than 5 years of credited service, his final average compensation shall be the average of his annual compensations for his total years of credited service.

(o) "Final compensation" means the annual rate of compensation of a member at the time of termination of his last employment with the board of education or retirement commission.

(p) "Accumulated normal deposits" means the sum of the normal annuity deposits of a member together with regular interest thereon.

"Accumulated additional deposits" means the sum of the additional deposits of a member together with regular interest thereon.

"Accumulated supplemental deposits" means the sum of the supplemental annuity deposits of a member together with regular interest thereon.

(q) "Normal annuity" means annual payments for life derived from the accumulated normal deposits of a member.

"Additional annuity" means annual payments for life derived from the accumulated additional deposits of a member.

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"Supplemental annuity" means annual payments for life derived from the accumulated supplemental deposits of a member.

All annuities shall be paid in equal monthly installments.

(r) "Pension" means annual payments for life derived from public funds. All pensions shall be paid in equal monthly installments.

(s) "Retirement allowance" means the sum of the annuities and the pension.

(t) "Retirement" means withdrawal from service with a retirement allowance granted under this chapter.

(u) "Annuity reserve" means the present value of all payments to be made on account of any annuity, or benefit in lieu of any annuity, computed upon the basis of such mortality table and regular interest as the retirement commission shall from time to time adopt.

(v) "Pension reserve" means the present value of all payments to be made on account of any pension, or benefit in lieu of any pension, computed upon the basis of such mortality, and other tables of experience, and regular interest as the retirement commission shall from time to time adopt.

(w) "School year" means the official school year as determined by the board of education in the operation of the public school system of the city.

(x) "Fiscal year" means the 12 calendar months beginning the first day of July and ending the following 30th day of June.

(y) "Compensation" means the remuneration paid a member for service performed by him as a teacher or non-teacher. In case a member's remuneration is not all paid in money the retirement commission shall fix the value of that part of his remuneration not paid in money.

(z) "Chapter I retirement system" means the retirement system established by chapter I of Act No. 136 of the Public Acts of 1945.

"Chapter II retirement system" means the retirement system established by chapter II of said act.

HISTORY: CL 1948, 38.311;—Am. 1954, p. 396, Act 170, Eff. Jul. 1;—Am. 1956, p. 259, Act 144, Imd. Eff. Apr. 16;—Am. 1968, p. 441, Act 256, Imd. Eff. Jul. 1.

38.312 Retirement system; membership.

Sec. 12. The membership of the retirement system shall consist of all persons who render board of education service.

HISTORY: Am. 1947, p. 325, Act 225, Eff. Oct. 11;—CL 1948, 38.312;—Am. 1956, p. 260, Act 144, Imd. Eff. Apr. 16.

38.313 Reciprocity; definitions.

Sec. 13. (a) Other provisions of this chapter notwithstanding, under such rules and regulations as the retirement commission, or the retirement commission, jointly with the governing boards of 1 or more reciprocal systems, may, from time to time, adopt, the provisions of this section shall apply for the purpose of continuity and preservation of credits, hereinafter referred to as reciprocity, in the case of employees who transfer membership between the retirement system created by chapter 2 of this act, hereinafter called the chapter 2 system, and the retirement systems created (1) by chapter 1 of this act, hereinafter called the chapter 1 system, or (2) for employees of a county or city in which a chapter 2 system is located, or both.

(b) For the purpose of this section the following definitions shall apply:

(1) Reciprocal system or systems means the retirement system or systems, other than the chapter 2 system, enumerated in subdivision (a).

(2) Reciprocal service means service rendered as a member of a reciprocal system.

(3) Reciprocal benefit or reciprocal retirement allowance means a retirement allow-

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ance payable to a retirant or beneficiary by this chapter 2 retirement system upon his receipt of a retirement allowance from a reciprocal system.

(4) Final system means the system in which a person is a member at the time a retirement allowance becomes payable thereunder.

(c) Reciprocal service, as certified to by reciprocal systems, shall be combined with service under this chapter for the sole purpose of determining eligibility for a retirement allowance under this chapter under the following conditions:

(1) The last 5 years of service immediately preceding payment of a retirement allowance shall have been rendered in this chapter 2 retirement system.

(2) The retirement allowance shall be based on credited service, the benefit formula, and other provisions of this chapter.

(3) Reciprocal service usable in computing a retirement allowance payable by a reciprocal system shall not be usable as credited service in this system.

(d) Upon receipt of a monthly retirement allowance from a final system, there shall be payable hereunder a monthly retirement allowance based on the service rendered as a member of this chapter 2 system under the following conditions:

(1) The former member shall have separated from service under this chapter after June 30, 1956.

(2) He shall not have withdrawn his accumulated deposits therefrom.

(3) In the case of service retirement he shall be age 60 years or over.

(4) His retirement allowance shall be computed under the provisions of this chapter: Provided, That he shall have not less than 5 years of service as a member of this chapter 2 system.

(5) The retirement commission may establish a minimum amount for which a monthly check covering his service in the chapter 2 system shall be issued. If the retirement allowance is less than this amount, the retirement allowance may be paid periodically, as determined by the retirement commission.

(6) In the event a disability or survivor retirement allowance becomes payable while in reciprocal service, a retirement allowance shall be paid, subject to the conditions of this subsection, under the provisions of section 28 or 37 hereof, whichever is applicable, notwithstanding that the disability or death may have resulted from duty connected causes. If such disability or survivor retirement allowance paid by a reciprocal system is computed as a proportion of compensation, rather than on years of service, the reciprocal retirement allowance shall not be payable by this chapter 2 system.

(e) Service rendered in a school district becoming a part of a school district of the first class, by operation of law, for the purpose of this section, shall be considered as board of education service.

HISTORY: CL 1948, 38.313;—Am. 1956, p. 260, Act 144, Imd. Eff. Apr. 16;—Am. 1966, p. 34, Act 18, Imd. Eff. Apr. 13.

38.314 Cessation of membership; reinstatement.

Sec. 14. Except as otherwise provided in this chapter, should a member cease to be a teacher or a non-teacher, for any reason, except while on official leave from board of education service, he shall thereupon cease to be a member and his credited service shall be forfeited by him. Should he return to board of education service he shall again become a member and his credited service last forfeited by him shall be reinstated provided he returns to the annuity savings fund and pension accumulation fund the amounts he may have withdrawn therefrom, together with regular interest thereon from the date of withdrawal to the date of repayment. Upon a member's retirement or death he shall thereupon cease to be a member.

HISTORY: CL 1948, 38.314;—Am. 1956, p. 261, Act 144, Imd. Eff. Apr. 16.

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38.315 Retirement commission; authority to determine membership.

Sec. 15. Right of commission to decide membership. In all cases of doubt, the retirement commission shall decide who is a member of the retirement system.

HISTORY: CL 1948, 38.315.

38.316 Retirement system; membership forms.

Sec. 16. Membership forms. Under such rules and regulations as the retirement commission shall adopt each member shall (1) file a detailed statement of all educational service rendered by him for which he claims credit, and (2) shall furnish such other information as the retirement commission may require in the proper operation of the retirement system.

HISTORY: CL 1948, 38.316.

38.317 Service year.

Sec. 17. Service year. The retirement commission shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to a year of service, but in no case (1) shall less than 10 days service in a calendar month constitute a month of service, nor (2) shall less than 6 months service in a fiscal year constitute a year of service, nor (3) shall less than 150 days service constitute 1 year of service, nor (4) shall more than 1 year of service credit be allowable for all service rendered within 1 fiscal year. For service constituting less than a year of service, credit shall be given for the proportionate part of a year as the number of days of service rendered within a fiscal year bears to a year of service as determined by the commission.

HISTORY: Am. 1947, p. 328, Act 225, Eff. Oct. 11;—CL 1948, 38.317.

38.318 Credit for military service; separation and leave time, conditions.

Sec. 18. (a) Any member who, while rendering board of education service in other than a substitute or part time position, is granted a leave of absence by said board of education to enter military service of the United States government during a time of war, or national emergency as recognized by the board of education, and who returns to board of education service within 2 years from and after the termination of any such military service required by federal law, shall have such military service credited him, subject to other subsections of this section, in the same manner as board of education service. Military service under this section shall include: (1) service, except civilian service, as a member of the army, navy, air corps, marine corps or coast guard and (2) service as a member of the American Red Cross during service with any branch or auxiliary of the armed forces of the United States.

(b) During the period of military leave of absence, a member's deposits to the annuity savings fund shall be suspended and his balance therein shall be accumulated at regular interest. As a condition to use such military service credit in computing his retirement allowance under any formula other than the regular formula provided in section 23 (a) of this chapter, any member shall deposit into the annuity savings fund prior to his retirement the deposits he would have made in board of education service after June 30, 1945, together with regular interest thereon; said deposits to be based upon his annual rate of compensation as of the payroll date next preceding his said military leave of absence.

(c) The period of time creditable under this section shall not exceed 6 years and shall terminate as of the date of separation from military service or the date the board of education recognizes that a period of war or national emergency shall have ceased, whichever is the earlier date. If he does not have the option to leave such service on such date, credit shall be continued not later than the termination of his then current term of draft or enlistment.

Any person, who, on or after July 1, 1965, (a) becomes employed for the first time by the board of education or (b) returns to board of education service after a separa-

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tion of 5 or more years other than by official leave of absence granted by the board of education, or his beneficiary, entitled to military service credit under this section shall have the benefits therefor reduced by the amount of any service (not disability) pension, annuity or similar benefit, deferred or otherwise, or to which the member or beneficiary may have voluntarily forfeited, other than benefits under the federal social security act, payable to him or which would have been payable to him by the United States government or any other public agency, on account of such military service credit.

If the entitlement occurs as a result of additional military credits earned subsequent to retirement under this chapter then his retirement allowance shall be reduced accordingly.

(d) In the event of disability or death while on military leave the retirement commission shall not be liable for duty death or duty disability benefits otherwise provided in this chapter.

(e) Upon the voluntary request of a retirant or beneficiary, all or any part of the pension portion of a retirement allowance may be waived for the sole purpose of qualifying for benefits provided by any unit of government because of military service.

HISTORY: CL 1948, 38.318;—Am. 1951, p. 276, Act 204, Imd. Eff. Jun. 14;—Am. 1956, p. 261, Act 144, Imd. Eff. Apr. 16;—Am. 1962, p. 564, Act 239, Eff. Mar. 28, 1963;—Am. 1965, p. 375, Act 214, Imd. Eff. Jul. 16.

38.319 Credit for out-of-system public education service; transfer of employment; conditions.

Sec. 19. (a) Under such rules and regulations as the retirement commission shall from time to time adopt, upon retirement effective after June 30, 1966, not to exceed 15 years of service shall be credited any member who has rendered public education service as a member of the retirement system established under chapter 1 of this act or predecessor systems covering such employees, which shall hereafter be referred to as the chapter 1 system. In addition, the years of service, if any, not to exceed the difference between the number of years of service credited as a member of the chapter 1 system, if any, and 10 years, shall be credited any member who has rendered other public education service and service covered in subsection (g) of this section outside the Michigan school district of the first class, whose compensation for said public education service was paid in full (1) by the United States government, or (2) by any unit of government in the United States, or (3) by any territory of the United States, or (4) by the Dominion of Canada, or any of its political subdivisions, provided said public education service was performed in the Dominion of Canada. Such public education service shall be certified by the proper authority of the public education agency for which such service was rendered. Any military service performed by the said member while in such other public education service shall be credited to him as other public education service within the limitations of this section if the provisions of section 18 of this chapter are satisfied in the same manner, in all respects, as if he had entered military service from board of education service.

(b) Any member who is entitled to, or who may have forfeited, through his voluntary action, his entitlement to a pension or annuity, deferred or otherwise, except benefits payable under the old-age and survivors insurance program of the federal social security act, payable out of funds provided by a public agency on account of such outside public service, including (1) military service and (2) other service provided for in subsection (g) of this section, if any, shall have any pension payable to him by this retirement system on account of such other public service reduced by the benefit, deferred or otherwise, payable to him or which would have been payable to him, as the case might be, by such other public agency on account of such other public service. Any retirant who had been granted credit under this section who, after becoming a retirant, returns to service for such public agency for which credit had been given and

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who becomes entitled to a monthly retirement benefit therefrom for such credited service, shall forfeit the credit allowed him hereunder and his pension shall be reduced accordingly.

(c) In the case of a member with 20 or more years of board of education service of which a part is prior service, such service, creditable under this section shall be credited (1) as prior service if such service was rendered before July 1, 1945; and (2) as membership service, if such service was rendered after June 30, 1945.

(d) In the case of a member who either (1) has less than 20 years of board of education service of which a part is prior service; or (2) has no prior service, such public service creditable under this section shall be credited as membership service.

(e) As a condition for granting membership service credit under this section, a member shall pay into the pension accumulation fund 5% of the maximum rate at time first payment is made for the classification for his position, not to exceed the maximum final average compensation on which membership service pension is then computed, multiplied by the number of years and fraction of a year of such membership service credit plus regular interest from the date of said service to the date of payment. As a condition to use such credit herein provided in computing his retirement allowance under any formula other than the regular formula provided in section 23(a) of this chapter, any member shall also deposit into the annuity savings fund an amount computed in the same manner as computed above for payment into the pension accumulation fund.

(f) If, at the time of retirement of a member who had purchased credit under this section, the usable final average compensation for computing his pension or retirement allowance is different from that on which the cost for credit hereunder was computed, then (1) if greater, the member may elect either to have his pension or retirement allowance for such service computed on the amount of compensation on which payment had been made or to make additional payment based on the final average compensation usable at the time of his retirement and have his pension or retirement allowance computed thereon; or (2) if lesser, the member shall be given a refund, with regular interest, of the difference in cost when computed on the basis of his final average compensation usable at the time of his retirement and have his pension or retirement allowance computed on the lesser usable final average compensation.

(g) Public service rendered by a member to the city of Detroit, the county of Wayne or the state of Michigan shall be creditable as membership service in the same manner as if it were other public education service, subject to the provisions of this section.

(h) In no case shall service credit provided for in this section be usable for either entitlement to or for computation of deferred retirement benefits as provided for in section 22 (b) of this chapter.

(i) This section shall be subject to section 13, hereof, as amended.

(j) In the event of disability or death of a member while in service covered in this section, there shall be no liability for duty disability or duty death benefits otherwise provided in this chapter.

HISTORY: Am. 1947, p. 326, Act 225, Eff. Oct. 11;—CL 1948, 38.319;—Am. 1951, p. 277, Act 204, Imd. Eff. Jun. 14;—Am. 1956, p. 262, Act 144, Imd. Eff. Apr. 16;—Am. 1966, p. 35, Act 18. Imd. Eff. Apr. 13.

38.320 Supplemental annuity; additional deposits, interest, limitation.

Sec. 20. In accordance with such rules and regulations as the retirement commission shall from time to time adopt, any member may enter into an agreement with the retirement commission to allow him to make deposits in addition to his normal deposits to provide a supplemental annuity. Any such agreement may be terminated or modified by him or the retirement commission as of the end of any school year or fiscal year, as the case may be, and shall be terminated upon his separation from board of

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education service. For each member making supplemental deposits, there shall be maintained an individual supplemental annuity savings fund account to which such supplemental deposits shall be credited and accumulated at regular interest: Provided, That the rate of regular interest so credited shall be no more than the rate of interest earned on the mean assets of the retirement system for the preceding fiscal year adjusted to the next lowest multiple of 1/4 of 1%. When monthly survivor benefits are payable under the provisions of section 37 of this chapter, an eligible survivor may, within 60 days after the death of the member, make supplemental deposits on behalf of the deceased member. Under such rules and regulations as the retirement commission may from time to time adopt, upon a member's retirement or death, if provisions of section 37 apply, the balance in his supplemental annuity savings fund account shall be transferred to such fund from which annuities are paid. The right of a member to a refund of his supplemental accumulated deposits shall be under the same conditions as are applicable to the refund of his normal accumulated deposits. A member's supplemental annuity savings deposits may not exceed an amount which will provide an annual life annuity, provided by normal, additional and supplemental annuity savings deposits, in excess of 1/2 of a member's final average compensation.

HISTORY: Am. 1947, p. 326, Act 225, Eff. Oct. 11;—CL 1948, 38.320;—Am. 1952, p. 368, Act 223, Eff. Sep. 18;—Am. 1956, p. 263, Act 144, Imd. Eff. Apr. 16.

38.321 Creditable service.

Sec. 21. (a) Subject to such rules and regulations as the retirement commission may from time to time adopt, each member shall be credited with the number of years and fraction thereof of prior service and membership service to which he is entitled.

(b) The retirement commission shall grant service credit for the time a member is on sabbatical leave authorized by the board of education. For the period of his sabbatical leave he shall make deposits into the annuity savings fund, as provided in section 40 of this chapter: Provided, That for the purpose of making such deposits, his rate of compensation at the time he began his said sabbatical leave shall be used.

(c) In the event a member renders public educational service to another educational agency and such service is authorized, approved and compensated for directly to such member by the board of education, then such service shall be credited as board of education service. During the period of such service, the said member shall make deposits to the annuity savings fund in the same manner as if such employment was directly with the board of education.

(d) Should the board of education grant or shall have granted a leave of absence for professional services with an employee organization which represents board of education employees in employment matters, membership service credit shall be allowed: Provided, That either the member or the employee organization shall (1) deposit into the member's normal annuity savings fund such amount as would have been deposited had the member been on the board of education payroll, computed on the usable average final compensation on which membership service credit is based at time of payment, together with regular interest, and (2) pay into the pension accumulation fund for the pension liability arising because of such credit an amount equivalent to that deposited into the annuity savings fund. In the event of death or separation from service without the member or his beneficiary becoming entitled to a monthly retirement allowance, the total payment hereunder shall be refundable according to the provisions of section 35 of this chapter, as amended.

(e) In the event of death or disability while on sabbatical leave, exchange teaching

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or a leave for professional service, as provided in (b), (c) and (d) above, the retirement commission shall not be liable for duty death or duty disability benefits as provided in sections 26, 27, 28 and 32 of this chapter, as amended.

HISTORY: CL 1948, 38.321;—Am. 1951, p. 278, Act 204, Imd. Eff. Jun. 14;—Am. 1954, p. 400, Act 170, Eff. Jul. 1.

38.322 Optional retirement; deferred service retirement allowance; effective date for benefits; lump sum terminal pay.

Sec. 22. (a) Any member may retire upon his written application filed with the retirement commission, on forms furnished thereby, setting forth at what time, not sooner than the first day of the calendar month next following 30 days subsequent to the filing thereof, he desires to be retired: Provided, That at the time of his retirement he (1) has attained age 60 years and has 10 or more years of board of education credited service of which at least the last 5 years are immediately preceding his retirement, or (2) has attained age 55 years and has 30 or more years of credited service of which at least the last 10 years immediately preceding his retirement are board of education service, or (3) is an original member and has 30 or more years of credited service of which at least the last 20 years immediately preceding his retirement are board of education service. Upon his retirement he shall be entitled to a retirement allowance provided for in section 23 hereof.

(b) Should a member who has not attained age 60 years discontinue his board of education service for any reason except retirement or death, and does not withdraw accumulated deposits or his contributions for prior service credit, he shall remain a member for the exclusive purpose of receiving a deferred service retirement allowance computed according to section 23 hereof. His said deferred retirement allowance shall be effective the first of the month following his application therefor filed with the retirement commission, on forms furnished thereby, at or after his attainment of age 60 years: Provided, That at the time of his separation he (1) has 15 or more years of credited board of education service immediately preceding separation, and he later retires with a monthly retirement allowance from another public agency; or (2) he has 15 or more years of credited board of education service immediately preceding separation and has attained age 50 years; or (3) regardless of his age, he has 25 or more years of credited board of education service, of which the last 10 years of said service are immediately preceding separation.

(c) A member who has not attained age 60, who qualifies for immediate benefits under the provisions of subsection (a) of this section, may choose, in lieu thereof, to qualify under the provisions of subsection (b) of this section.

(d) Notwithstanding any other provisions of this chapter, the effective date for benefits provided hereunder for service retirement and in other sections hereof for disability and survivor benefits shall not take into account any lump sums which may be paid by the board of education to a retirant or beneficiary in the form of terminal pay, unused sick pay or death benefits.

HISTORY: Am. 1947, p. 326, Act 225, Eff. Oct. 11;—CL 1948, 38.322;—Am. 1949, p. 160, Act 152, Imd. Eff. May 24;—Am. 1951, p. 278, Act 204, Imd. Eff. Jun. 14;—Am. 1956, p. 264, Act 144, Imd. Eff. Apr. 16.

38.323 Service retirement allowance; annuities and pensions, computation; minimums.

Sec. 23. Upon his retirement, as provided in section 22 hereof, a member shall receive a retirement allowance consisting of the benefits hereinafter provided in this section:

(a) (1) A normal annuity which shall be the actuarial equivalent of his accumulated normal deposits standing to his credit in the annuity savings fund at the time of his retirement; and

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(2) A supplemental annuity which shall be the actuarial equivalent of his accumulated supplemental deposits standing to his credit in the annuity savings fund at the time of his retirement; and

(3) A membership service pension equal to 1/120 of the first $4800 of his final average compensation multiplied by the number of years, and fraction of a year, of his credited membership service; and

(4) A prior service pension equal to 1/60 of the first $3600 of his final average compensation multiplied by the number of years, and fraction of a year, of his credited prior service, not to exceed 30 years.

(b) (1) If an original member with 35 or more years of credited service retires prior to his attainment of age 60 years, his retirement allowance provided for in (a) (1), (3) and (4) above shall not be less than 1/2 of the first $3600 of his final average compensation.

(2) In no case shall the retirement allowance provided for in (a) (1), (3) and (4) above, payable to an original member who retires after his attainment of age 60 years, be less than the sum of 1/60 of the first $4800 of his final average compensation multiplied by the number of years, and fraction of a year, of his credited membership service, not to exceed 30 years, plus 1/60 of the first $3600 of his final average compensation multiplied by the number of years, and fraction of a year, of his credited prior service, not to exceed the number of years which when added to his credited membership service, shall equal, but not exceed, 30 years of credited service: Provided, That his said retirement allowance shall not be less than 2.5% of the first $1600 of his final average compensation multiplied by the number of years, and fraction of a year, of his credited service, not to exceed 30 years.

(c) (1) A member's retirement allowance provided in (a) (1), (3) and (4) above shall not be less than an amount equal to the number of years, and fraction of a year, of his credited service multiplied by 1.25% of the first $10,000 of his final average compensation: Provided, That each July 1 subsequent to July 1, 1956 the said final average compensation limit shall be increased $2000: Provided further, That said increases in final average compensation which shall become effective subsequent to a member's retirement shall not apply to him.

(2) In the event the said member retires prior to his attainment of age 60 years, as provided in section 22 hereof, his retirement allowance provided for in (c) (1) of this section shall be reduced 1/2 of 1% for each month, and fraction of a month, contained in the period from the date of his retirement to the date he would attain age 60 years.

HISTORY: Am. 1947, p. 327, Act 225, Eff. Oct. 11;—CL 1948, 38.323;—Am. 1949, p. 160, Act 152, Imd. Eff. May 24;—Am. 1952, p. 369, Act 223, Eff. Sep. 18;—Am. 1954, p. 400, Act 170, Eff. Jul. 1;—Am. 1956, p. 264, Act 144, Imd. Eff. Apr. 16.

38.324 Service retirement allowance; adjustment of factors by board of education.

Sec. 24. The board of education may, by resolution, adjust the factors used in the formula contained in section 23 (a) and (b) hereof to compute the benefits for credited membership service, whereupon such adjusted factors shall be used by the retirement commission notwithstanding the provisions of said section.

HISTORY: CL 1948, 38.324;—Am. 1954, p. 402, Act 170, Eff. Jul. 1;—Am. 1956, p. 265, Act 144, Imd. Eff. Apr. 16.

38.325 Service retirement allowance; adjustment, limiting conditions.

Sec. 25. The board of education may provide for adjustment of the pension payable to a retirant or beneficiary subject to the following conditions:

(1) The amount of any such adjustment shall be authorized annually by resolution of the board of education and shall be terminated upon its request; (2) the retirement system shall in no way be liable as a result of any cancellation or termination by the said board of education of any such adjustment; (3) the obligation therefor shall be on

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a supplemental basis only from year to year and shall not be made a part of or incorporated in the benefits or liabilities of the retirement system; (4) prior to disbursement by the retirement system, funds for any such adjustment shall be provided in full by the board of education and (5) no adjustment shall be paid for any month prior to the July following the date of authorization by the board of education.

HISTORY: Am. 1947, p. 327, Act 225, Eff. Oct. 11;—CL 1948, 38.325;—Am. 1954, p. 402, Act 170, Eff. Jul. 1;—Am. 1956, p. 265, Act 144, Imd. Eff. Apr. 16.

38.326 Disability retirement; election.

Sec. 26. A member who is eligible for service retirement as provided in section 22 (a) of this chapter may either retire thereunder or, if otherwise eligible for disability retirement, under the provisions of section 27 hereof.

HISTORY: CL 1948, 38.326;—Am. 1956, p. 265, Act 144, Imd. Eff. Apr. 16.

38.327 Disability retirement allowance; application, qualifications, procedure.

Sec. 27. Upon the application of a member or the board of education filed with the retirement commission, on forms furnished thereby, prior to 6 months after termination of board of education service, a member who, without willful negligence on his part, became totally and permanently incapacitated for duty as a teacher or nonteacher by reason of a personal injury or mental or physical illness occurring prior to his separation from board of education service may be retired by the retirement commission if (1) he has 10 or more years of board of education service rendered immediately prior to his retirement and (2) the physician or physicians designated by the retirement commission, after an examination of said member, shall certify in writing to the retirement commission (a) that said member is either mentally or physically totally incapacitated for the further performance of the duties for his classification in board of education service, and (b) that such incapacity will probably be permanent. Upon approval, he shall receive a disability retirement allowance provided in section 28 of this chapter to begin as of the first day of the calendar month following his disability but in no case (1) more than 6 months prior to the first day of the calendar month following the date his application for disability retirement was filed with the retirement commission, or (2) prior to the first day of the calendar month next following the last date for which compensation for board of education service, exclusive of terminal pay, if any, is paid, whichever is later.

HISTORY: CL 1948, 38.327;—Am. 1954, p. 403, Act 170, Eff. Jul. 1;—Am. 1956, p. 265, Act 144, Imd. Eff. Apr. 16.

38.328 Disability retirement allowance; computation.

Sec. 28. (a) Any member who retires on account of disability as provided in section 27 of this chapter shall receive a disability retirement allowance computed according to sections 23 (a) and 23 (c) (1) subject to sections 22 (d), 33, 34 and 37 hereof.

(b) Upon attainment of age 60 years or if over age 60 years at time of his disability retirement, the provisions of section 23 (b) shall apply if they produce a greater retirement allowance.

HISTORY: CL 1948, 38.328;—Am. 1954, p. 403, Act 170, Eff. Jul. 1;—Am. 1956, p. 266, Act 144, Imd. Eff. Apr. 16.

38.329 Disability retirement allowance; member receiving workmen's compensation.

Sec. 29. Any member may retire on account of disability as provided in section 27 hereof, notwithstanding that he does not have 10 years of board of education credited service, if he is in receipt of workmen's compensation on account of his board of education service. Upon his retirement he shall receive a disability retirement allowance provided in section 28 of this chapter: Provided, That the years of service used in computing his disability retirement allowance shall not be less than 10 years.

HISTORY: CL 1948, 38.329;—Am. 1956, p. 266, Act 144, Imd. Eff. Apr. 16.

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38.330 Disability retirant; reinstatement or expiration of workmen's compensation.

Sec. 30. Upon recovery and return to board of education service or upon termination of the statutory period for payment of a disability retirant's weekly workmen's compensation, if any, arising on account of his board of education service, he shall be given membership service credit for the said statutory period and his disability retirement allowance shall be adjusted to include such additional credit.

HISTORY: CL 1948, 38.330;—Am. 1954, p. 404, Act 170, Eff. Jul. 1;—Am. 1956, p. 266, Act 144, Imd. Eff. Apr. 16.

38.331 Disability retirant; death, survivors' allowance, options.

Sec. 31. (a) If (1) a member dies as a result of injury or illness arising out of and in the course of his board of education service for which workmen's compensation is paid, or (2) a disability retirant, who is in receipt of workmen's compensation on account of his board of education service, dies from the same causes for which he retired within 3 years from and after his retirement and in either case (1) or (2) above, such death, illness or injuries resulting in death be found by the retirement commission to have resulted, without his willful negligence, from the performance of his board of education service, then the applicable benefits provided in section 32 hereof shall be paid.

(b) As used in section 32 hereof, (1) the term "widow" or "widower", as the case may be, means the person to whom the member or retirant was married at the time his board of education service terminated, (2) the term "eligible child or children" means a natural or adopted child or children of the deceased under age 18 years who is unmarried. Payment of benefits shall cease upon marriage, adoption or attainment of age 18 years.

(c) In lieu of the duty death benefits provided hereunder an eligible beneficiary under this section who could also qualify under the provisions of section 37 hereof may, prior to receipt of his first payment, elect under which section he wishes to receive benefits.

HISTORY: Am. 1947, p. 328, Act 225, Eff. Oct. 11;—CL 1948, 38.331;—Am. 1951, p. 279, Act 204, Imd. Eff. Jun. 14;—Am. 1954, p. 404, Act 170, Eff. Jul. 1;—Am. 1956, p. 266, Act 144, Imd. Eff. Apr. 16.

38.332 Survivors' allowance; computation, allocations; offset of workmen's compensation.

Sec. 32. The aggregate amount of the annual pensions provided in this section, shall not exceed one-half of a member's final compensation. Where more than one person is entitled to benefits under this section, any reduction required shall be prorated among the respective recipients.

(a) His accumulated deposits shall be paid in accordance with section 35 (b) hereof.

(b) In the case of a member or retirant, as the case may be, who leaves (1) a widow or (2) a widower whom the retirement commission finds to be without source of support due to disability or (3) a widow or dependent widower and eligible child or children, there shall be paid a pension of 1/3 of the deceased person's final compensation to his widow or to her dependent widower, as the case may be, to continue either as long as such widow or widower does not remarry or such widower is without means of support. If an eligible child or children also survive the said deceased person, each such child shall be paid a pension of an equal share of 1/4 of the said deceased person's final compensation. Upon any such child's death, marriage, adoption or attainment of age 18 years his pension shall terminate and there shall be a redistribution by the retirement commission to the said deceased person's eligible surviving children under age 18 years.

(c) If there be no widow or dependent widower surviving the said deceased person, or if the widow or dependent widower dies or remarries before the youngest eligible

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surviving child of said deceased person shall have attained age 18 years, his eligible child or children under age 18 years shall each receive a pension of 1/4 of the said deceased person's final compensation. If there be more than 2 such eligible surviving children under age 18 years, each such child shall receive a pension of an equal share of 1/2 of the said deceased person's final compensation. Upon any such child's death, marriage, adoption or attainment of age 18 years his pension shall terminate and there shall be a redistribution by the retirement commission to the said deceased person's eligible surviving children under age 18 years, but in no case shall any child receive a pension of more than 1/4 of the said deceased person's final compensation.

(d) If there be neither widow, nor eligible children under age 18 years, nor widower surviving the said person, there shall be paid to 1 surviving dependent parent, as the retirement commission after investigation shall determine to have been actually dependent upon said deceased person through absence of earning power due to physical or mental disability, and to be without source of support, a pension of 1/6 of the said deceased person's final compensation or if both parents survive the deceased person and neither has means of support because of disability then the combined pension payable to both dependent parents shall be 1/4 of the deceased person's final compensation.

(e) Effective July 1, 1956 workmen's compensation offset to benefits payable under this section shall be discontinued.

HISTORY: CL 1948, 38.332;—Am. 1956, p. 267, Act 144, Imd. Eff. Apr. 16.

38.333 Disability retirant; medical re-examinations required; restoration to service.

Sec. 33. (a) At least once each year during the first 5 years following retirement of a member with a disability retirement allowance, and at least once in every 3 year period thereafter, the retirement commission may, and upon the member's application shall require any disability retirant who has not attained age 60 years to submit to a medical or psychiatric examination, as the case may require, to be made by or under the direction of the physician or physicians designated by the retirement commission. Should any such disability retirant refuse to submit to such examination in any such period, his disability retirement allowance may be discontinued until his withdrawal of such refusal. Should such refusal continue for 1 year, all his rights in and to the pension portion of his retirement allowance may be revoked by the retirement commission. If upon such examination of a disability retirant, the examiner reports and his report is concurred in by the retirement commission that such retirant is able and capable of resuming board of education service, he shall be restored to active board of education service and his disability retirement allowance shall cease. Payment of said disability retirement allowance shall continue until said retirant is actually returned to board of education service in a position which shall be of the same or similar classification as that held by him at the time of his retirement. Should he refuse to return to board of education service in a position of similar classification to that held at the time of his retirement and should his refusal continue for one year, all his rights in and to his retirement allowance shall cease and a lump sum payment made of the difference between his accumulated deposits at time of retirement and the aggregate amount of his annuity payments.

(b) A disability retirant who has been or shall be restored to active full time service, as provided in this section, shall, from the date of such restoration again become a member of the retirement system, and he shall make annuity deposits to the retirement system thereafter. Any credited prior service and membership service at the time of his retirement shall be restored to full force and effect. He shall be given membership service credit for the period he was in receipt of a disability retirement allow-

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ance if he was in receipt of workmen's compensation benefits arising on account of his board of education service.

HISTORY: CL 1948, 38.333;—Am. 1954, p. 405, Act 170, Eff. Jul. 1;—Am. 1956, p. 267, Act 144, Imd. Eff. Apr. 16.

38.334 Disability retirant; final compensation, definition; adjustment due to gainful employment.

Sec. 34. Final compensation as used in this section shall mean the approved board of education rate on January 1 of each year for the job classification of the disability retirant held at the time of his retirement. Should the disability retirant become engaged in a gainful occupation, business or employment, including part time board of education service, and should the total of his income from such occupation, business or employment and his pension provided by this chapter exceed his final compensation, his pension shall be reduced to an amount which when added to the amount so earned by him shall equal his final compensation. Should his earnings be later changed, his pension shall be modified in like manner. Any deposits made during a period of part time board of education service while on disability retirement shall be refunded according to the provisions of section 35 hereof.

HISTORY: CL 1948, 38.334;—Am. 1956, p. 268, Act 144, Imd. Eff. Apr. 16.

38.335 Cessation of employment or death before retirement; refund of contributions; spouse as beneficiary of deceased member.

Sec. 35. (a) Should a member separate from board of education service before becoming entitled to retirement benefits provided by this chapter, he shall be paid the amount of his accumulated deposits standing to his credit in the annuity savings funds of this retirement system, together with the contributions paid by him under the provisions of section 19 of this chapter, with regular interest credited to the 30th day of June preceding the date his name last appeared on the payroll, upon his written application on forms furnished by the retirement commission.

(b) Should a member die before his service retirement becomes effective, the amount of his accumulated deposits standing to his credit in the said annuity savings fund, together with the contributions paid by him under the provisions of section 19 of this chapter, shall, with regular interest, be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the retirement commission, or, if there be no such designated person or persons, then to his legal representative. Any designation of a spouse as beneficiary shall be and hereby is automatically considered null and void upon the divorce of or legal separation from said spouse unless member renames such person after said divorce or legal separation and the refund provided in this section shall be paid to his legal representative notwithstanding the deceased member may have named a contingent beneficiary. Upon marriage or remarriage of a member, any beneficiary previously named hereunder shall be void and his legal spouse considered the beneficiary unless thereafter the member names a beneficiary other than his spouse.

Any balance in the annuity savings fund, credited to such members, not withdrawn shall remain a part of the said fund. Under such rules and regulations and such mortality, interest, and other tables as the retirement commission may from time to time adopt the refund of contributions to a beneficiary upon a member's death as provided for in sections 35 and 36 of this chapter may be paid in installments in lieu of a lump sum payment.

HISTORY: Am. 1947, p. 328, Act 225, Eff. Oct. 11;—CL 1948, 38.335;—Am. 1949, p. 161, Act 152, Imd. Eff. May 24;—Am. 1956, p. 268, Act 144, Imd. Eff. Apr. 16.

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38.336 Cessation of employment before entitlement to retirement allowance; refund of contributions, computation; reinstatement on reemployment.

Sec. 36. (a) On and after July 1, 1945, should a member discontinue board of education service before becoming entitled to a retirement allowance provided by this chapter, he shall be paid 50% of his contributions without interest made for service rendered to the board of education from July 1, 1923 to July 1, 1945, upon application, in writing, on forms furnished by the retirement commission. In the event of a member's death, 75% of said contributions shall be payable to his beneficiary duly designated by him or to his legal representative if there be no such designated beneficiary. In no case shall any member be refunded any contributions previously forfeited by him upon failure to apply for same upon separation from board of education service prior to July 1, 1945.

(b) Upon return to board of education service any member shall pay into the pension accumulation fund, with regular interest, that portion of his contributions covering service rendered prior to July 1, 1945, and previously refunded to him, for which he wishes service credit.

HISTORY: Am. 1947, p. 328, Act 225, Eff. Oct. 11;—CL 1948, 38.336;—Am. 1951, p. 279, Act 204, Imd. Eff. Jun. 14;—Am. 1956, p. 269, Act 144, Imd. Eff. Apr. 16.

38.337 Life retirement allowance.

Sec. 37. (a) Any member, upon application for retirement, but not thereafter, may elect to receive his benefit in a retirement allowance payable throughout his life, called a straight "life retirement allowance" or he may elect to receive the actuarial equivalent of a straight life retirement allowance, at that time, in a reduced retirement allowance payable throughout his life, and nominate a beneficiary according to provisions of options 1, 2 or 3 as hereinafter set forth.

Option 1. Diminishing refund annuity:

His reduced annuity shall be paid for life, however, if he dies before he has received in annuity payments, an aggregate amount equal to his accumulated deposits at time of retirement, the difference, if any, shall be paid to such person or persons as he shall, from time to time, have nominated by written designation duly executed and filed with the retirement commission.

Option 2. Joint survivorship allowance.

Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement commission prior to the effective date of his retirement.

Option 3. Modified joint survivorship allowance:

Upon his death, 1/2 of his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the retirement commission prior to the effective date of his retirement.

Should the beneficiary named under options 2 or 3 become divorced from or predecease the retirant, then the retirant's reduced retirement allowance shall be continued to be paid him during the remainder of his lifetime; a new survivor beneficiary may not be named.

A person with an insurable interest in the life of a member shall be either (1) a husband; (2) a wife; or (3) any person related to the member whom the retirement commission finds to be dependent upon the member for at least 50% of his support.

If there is paid out in either straight life retirement allowance or one of the options or as provided in subsections (b) or (c) of this section an aggregate amount less than

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the member's accumulated deposits and the refundable portion of his contributions for service rendered before July 1, 1945, as credited to his account either (1) at the time of his retirement or (2) upon death in service when the provisions of subsections (b) or (c) of this section, as amended, apply, then the difference, if any, together with the earned but unpaid portion of the final check due at time of death shall be paid under the provisions of sections 35 and/or 36 of this chapter, as from time to time amended, to a beneficiary named by either the retirant or his survivor. Such refund shall be known as a "residual refund".

Joint beneficiaries under option 2.

(b) Under such rules and regulations as the retirement commission may from time to time adopt, a member who continues in board of education service after the date he acquires 15 years of combined board of education service, regardless of his age, may, unless covered by the provisions of subsection (c) of this section, as amended, at any time thereafter, by written declaration duly executed and filed with the retirement commission, in the manner and form prescribed thereby, make an election of option 2 as provided for in this section. If he has no beneficiary eligible under subsection (c) of this section he may nominate a joint beneficiary whom the retirement commission finds (1) to be dependent upon the said member for at least 50% of his support, and (2) to be related to said member.

Prior to the effective date of the member's retirement, his election of option 2 and nomination of a joint beneficiary may be revoked and, upon the death of a joint beneficiary or marriage of the member, shall be automatically revoked. He may, prior to his retirement, but not thereafter, elect option 2 and nominate a new joint beneficiary as provided in this subsection (b), as amended.

In the event any member, who shall have made an election and nominated a joint beneficiary, by written declaration as provided in this subsection, as amended, shall die prior to the effective date of his retirement, then the said joint beneficiary, if then without source of support shall, effective the first of the month following his death, or for which compensation is paid, whichever is the later date, be entitled to the reduced retirement allowance under the said option 2 in the same manner as if the member had retired at that time. The reduced retirement allowance shall be paid (1) during the lifetime of the joint survivor beneficiary as long as he remains without source of support and/or (2) until a survivor minor marries, dies, is adopted or attains age 18 years, whichever occurs first. In the event a member who shall have made an election of option 2 under the provisions of this subsection (b), as amended, subsequently retires, his said election of option 2, unless previously revoked, shall take immediate effect.

Eligible joint beneficiaries, conditions of payment.

(c) In the event a member who continues in board of education service after the date he acquires 15 years of board of education service, dies prior to the effective date of his retirement, then such person as is determined by the retirement commission under conditions hereinafter enumerated to be his eligible joint beneficiary shall be entitled to elect either to have the deceased member's accumulated deposits and the refundable portion of his contributions for service prior to July 1, 1945, refunded according to the provisions of sections 35 and/or 36 of this chapter or to receive a retirement allowance computed (1) in the same manner as if the said member had retired effective the first of the month following his death, or for which compensation is paid, whichever is the later date, and (2) nominated such eligible joint beneficiary to receive his retirement allowance: Provided, That a member may designate in writing, on forms provided by the retirement commission that his eligible spouse, child or children shall, upon his death while in service, receive a monthly retirement allowance, in which event his eligible survivor may not elect a refund. The conditions of payment

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and eligibility for survivor benefits under this subsection (c), as amended, shall be in accordance with the following conditions:

(1) (a) In the case of a male member who leaves a survivor widow or a female member who leaves a survivor widower whom the retirement commission finds to be without source of support because of a total and permanent disability, said retirement allowance shall be paid the eligible survivor until death or remarriage or until the commission finds that said eligible survivor widower is no longer disabled and/or without source of support, whichever occurs first.

(b) If, upon the death of the survivor widow, or eligible dependent widower there is a child or are children of the deceased member who are under 18 years of age or who, regardless of age are without source of support because of a total and permanent disability, then the benefit, in the same amount as had been paid the deceased survivor widow or eligible dependent widower shall be continued to be paid to said child or children (1) until death, marriage, adoption or attainment of age 18 years, whichever occurs first, or (2) in case of a totally and permanently disabled child over age 18 is no longer without source of support or totally and permanently disabled, whichever occurs first. Said retirement allowance shall be divided equally between or among all such qualified children. Upon cessation of benefits to any one child his share shall be apportioned among the remaining children.

(2) If neither a widow nor widower survives the deceased member but there is an unmarried child or children of the deceased member under 18 years of age or who, regardless of age, are without source of support because of a total and permanent disability, then the retirement allowance shall be paid to the child or children under the same conditions as provided in c 1(b) next above.

Deferred service retirant, death before age 60, survivor benefits, refund.

(d) Should a member die while under the provisions of section 22 (b) of this chapter, as amended, a survivor widow, widower or child or children may, if found to be eligible, elect benefits under the provisions of subsection (c) of this section, to begin at such time as the deceased member would have reached age 60 years. Should the eligible survivor die before the effective date of said survivor benefits as herein provided then refund shall be made.

Retirement allowance, computation.

(e) A retirement allowance payable to a beneficiary under the provisions of subsections (b) or (c) of this section shall be computed according to section 28 hereof: Provided, That for the purpose of section 28 (b), age 60 years shall mean the date the deceased member would have attained age 60 years.

Creditable service, application to joint beneficiaries.

(f) Creditable service, as provided in section 19 hereof, as amended, shall apply to benefits now or hereafter payable under the provisions of subsections (b) and (c) of this section.

Adopted child; divorce; refund.

(g) For the purpose of subsection (c) of this section, as amended, (1) a child by adoption shall be considered a child of the deceased, (2) if the deceased member is divorced or legally separated at the time of his death the former spouse shall not be eligible for benefits under subsection (c), as amended, (3) if a deceased member is divorced or legally separated at the time of his death but he is responsible by court decree for the support of his child or children, then such child or children shall have the same rights as provided in paragraph (2) of subsection (c) of this section, as amended.

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The provisions of subsection (c) of this section, as amended, shall apply in the case of any person otherwise entitled to the benefits hereof who died on or after May 27, 1953: Provided, That any refund made shall be returned to the fund.

HISTORY: Am. 1947, p. 329, Act 225, Eff. Oct. 11;—CL 1948, 38.337;—Am. 1949, p. 161, Act 152, Imd. Eff. May 24;—Am. 1953, p. 132, Act 129, Eff. Oct. 2;—Am. 1954, p. 405, Act 170, Eff. Jul. 1;—Am. 1956, p. 289, Act 144, Imd. Eff. Apr. 16.

38.338 Retirement allowance; reduction on re-employment in tax supported school.

Sec. 38. In the event a person receives a retirement allowance or other benefit payable under the provisions of this chapter or predecessor systems for board of education employees, on account of either or both age and years of personal services performed, and becomes employed in any tax supported school or other public education agency without affecting the payment of his retirement allowance he may earn from such employment the amount he is permitted to earn without a reduction of benefits under the federal social security act as of 1968, or any amount earned for not to exceed 75 full or fractional days of service in a fiscal year. The pension portion of his retirement allowance shall be reduced by any earnings from such employment in excess thereof.

Should such service after retirement be board of education service, the deposits therefor shall be refunded under the provisions of section 35. Such service shall not be creditable service.

HISTORY: CL 1948, 38.338;—Am. 1951, p. 288, Act 207, Imd. Eff. Jun. 14;—Am. 1956, p. 271, Act 144, Imd. Eff. Apr. 16;—Am. 1968, p. 474, Act 276, Imd. Eff. Jul. 1.

38.338b Repealed. 1951, p. 288, Act 207, Imd. Eff. Jun. 14.

Section provided for cessation of pension upon re-employment.

38.339 Retirement system funds; establishment by retirement commission.

Sec. 39. The retirement commission shall establish not less than 4 funds as provided in this chapter together with such other funds and accounts as may from time to time be required to properly record the assets and reserves, and the transactions of this retirement system.

HISTORY: CL 1948, 38.339;—Am. 1962, p. 565, Act 239, Eff. Mar. 28, 1963.

38.340 Annuity savings fund; payroll deduction of deposits; credited service on re-employment; transfer to annuity reserve fund.

Sec. 40. (a) The annuity savings fund shall be a fund in which shall be accumulated, at regular interest, the deposits deducted from the compensations of members to provide their annuities, and from which shall be paid refunds of accumulated deposits.

(b) To July 1, 1956 a member's normal deposits shall be 5% of the first $4800 of his annual compensation. From and after June 30, 1956, a member's normal deposits shall be 5% of his annual compensations. His deposits shall be credited to his individual annuity savings fund account.

(c) The proper authority or officer responsible for making up the payroll for the board of education, the retirement commission and/or Wayne university shall cause to be deducted from the compensations of each member the deposits required in subsection (b) of this section. The retirement commission shall from time to time adopt rules and regulations governing the manner of making such deductions, the amount of deduction, procedures for special, temporary and part time employees during partial years of service, temporary absence without compensation, and other rules not inconsistent with the provisions of this chapter.

(d) A member's schedule or contract salary shall not be construed to be reduced because of any deductions made as herein provided. The board of education shall transmit to the retirement system the aggregate deductions from all members for each payroll period not later than the pay day for said payroll period.

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(e) In order to use as credited service, subject to the conditions of section 14 of this chapter a former member, who returns to board of education service shall deposit to his account in the annuity savings fund an amount equal to the accumulated deposits he may have withdrawn therefrom, together with regular interest thereon from the date of withdrawal to the date of payment.

(f) Upon the retirement of a member, his accumulated deposits shall be transferred to the annuity reserve fund of this retirement system. Should the accumulated deposits of a member not be withdrawn upon his separation from service, they shall remain a part of the fund until claimed by the separated member, his beneficiary, or his legal representatives.

HISTORY: CL 1948, 38.340;—Am. 1954, p. 407, Act 170, Eff. Jul. 1;—Am. 1956, p. 272, Act 144, Imd. Eff. Apr. 16.

38.341 Annuity reserve fund; purpose; funds transferred from pension accumulation fund.

Sec. 41. (a) The annuity reserve fund shall be the fund from which shall be paid all annuities provided for in this chapter. Should a disability retirant be restored to active board of education service, the balance of his annuity reserve at that time shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

(b) At any time the balance in the annuity reserve fund becomes less than the liability for annuity payments therefrom, as determined by the actuary, there shall be transferred from the pension accumulation fund such amounts as will make the annuity reserve fund equal to said liability.

HISTORY: CL 1948, 38.341;—Am. 1956, p. 272, Act 144, Imd. Eff. Apr. 16.

38.342 Pension accumulation fund; payment of pensions, refunds and annuities; reserves.

Sec. 42. (a) The pension accumulation fund shall be the fund from which shall be paid (1) all pensions provided by this chapter, (2) all refunds of contributions made by members to the former teachers' retirement fund or non-teaching employees' retirement fund, as the case may be, (3) all pensions or annuities payable to retirants who retired prior to July 1, 1945 and (4) all sums required by section 41 (b) next above. Reserves covering payments to be made from the pension accumulation fund shall be accumulated therein.

Transfer of assets; payment of pensions, annuities and benefits to retirants of transferred systems' assets.

(b) In a school district of the first class which on the effective date of this act shall have in existence a public school teachers' retirement fund and a non-teaching public employee retirement fund, the teachers' retirement fund board and the non-teaching employees' retirement fund board shall cause to be transferred to this retirement system all assets, of whatever nature or description, in the said public school teachers' retirement fund and the said non-teaching employees' retirement fund. When such assets are transferred to this retirement system (1) they shall be credited to the pension accumulation fund of this retirement system, and (2) the payment of pensions, or annuities, or other benefits payable to retired employees of the board of education of said school districts of the first class who were retired prior to July 1, 1945, shall become an obligation of the pension accumulation fund of this retirement system.

Benefits deemed deferred compensation; deductions; benefits; appropriations, transfers to other funds.

(c) The benefits provided by this chapter shall be and hereby are considered as deferred compensation and shall be a contractual obligation between the board of education and the employees. Employment with the board of education or the retirement commission either prior to or after July 1, 1955, and continuance in such employment

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by a member shall constitute valid offer and acceptance. In consideration of the benefits provided in this chapter the member, by continuance in or acceptance of employment with the board of education or the retirement commission either prior to or after July 1, 1955, agrees to deduction from his compensation of the annuity deposits as provided in section 40 of this chapter, as from time to time amended.

The benefits of this contract may not be diminished except by agreement between the board of education and the members by a referendum agreeing to the same by 60% of the members by secret written ballot. Any proposal for reduction shall be made by the board of education and submitted in writing to members of the retirement system not less than 90 days prior to said referendum. The referendum shall be conducted by the retirement commission. Retirement benefits now being paid former employees and their beneficiaries shall likewise be part of the contractual obligation of the board of education.

In order to meet the liabilities resulting from the contractual obligations to pay pension benefits as herein provided, the board of education shall make annual appropriations to the retirement system to build up reserves deemed adequate by the board of education to meet their accruing liabilities.

The annual board of education appropriation shall be paid to the retirement system in equal monthly installments.

Money or credits shall not be transferred from the employees' retirement fund to the building fund, the maintenance fund or any other funds of the board of education.

HISTORY: CL 1948, 38.342;—Am. 1955, p. 278, Act 185, Eff. Jan. 12, 1956;—Am. 1956, p. 272, Act 144, Imd. Eff. Apr. 16.

38.343 Pension accumulation fund; receipt of payments, gifts and appropriations to retirement system; gift fund.

Sec. 43. All payments, gifts or appropriations which this retirement system shall receive from the state of Michigan or other unit of government shall be credited to the pension accumulation fund.

The total appropriation required to be made by appropriating bodies under the provisions of section 42 (c) of this chapter shall be annually reduced by the amount received by this retirement system from the state of Michigan within the period prior to the date of the final adoption of the budget of the board of education and subsequent to the date of the final adoption of the last previous budget of the board of education.

Any funds allocated or distributed or credit allowed to the board of education for retirement purposes in any state appropriation or allocation bill shall be paid into the pension accumulation fund of the retirement system.

Any gifts, legacies or endowments received from any individual, partnership, corporation, or estate shall be accumulated in a special fund to be known as the gift fund. The retirement commission shall from time to time establish rules and regulations for the disbursement of said funds for the purpose indicated by the donor or if no specific purpose is indicated, then for the general welfare of retirants and the retirement system. This fund shall constitute a separate trust for which investments shall be bought and sold upon approval of the retirement commission.

HISTORY: CL 1948, 38.343;—Am. 1949, p. 162, Act 152, Imd. Eff. May 24;—Am. 1955, p. 350, Act 234, Imd. Eff. Jun. 18.

38.344 Expense fund; purpose.

Sec. 44. Expense fund. The expense fund shall be the fund to which shall be credited all money provided by the board of education to pay the administration expenses of the retirement system and from which shall be paid all the expenses necessary in connection with the administration and management of the retirement system.

HISTORY: CL 1948, 38.344.

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38.345 Retirement commission; annual certification of compensation payable; state aid.

Sec. 45. (a) On or before July 31st of each year the retirement commission shall certify to the superintendent of public instruction the aggregate compensations estimated to be paid employees of a school district of the first class which comprise the membership of the retirement system established by chapter II of Act No. 136 of the Public Acts of 1945 for the current fiscal year having begun July 1 and ending the next following June 30.

Computation of sum due system; certification to state treasurer.

(b) On the basis of the annual estimates the superintendent of public instruction shall compute the sum due and payable to the chapter II retirement system at the rate of 11% of the annual aggregate compensations, and shall certify this amount to the state treasurer.

Payments by state treasurer; source.

(c) The state treasurer shall make payment of the amount certified to him by the superintendent of public instruction in 12 equal monthly installments. He shall make payment from school aid funds as provided by section 11 of article 9 of the state constitution.

Certification of aggregate compensations; adjustments.

(d) Not later than 90 days after termination of a fiscal year the retirement commission shall certify to the superintendent of public instruction the actual aggregate compensations paid to employees of a school district of the first class during the preceding fiscal year. Upon receipt thereof he shall compute any adjustment required due to any difference between the estimated and the actual aggregate compensations and cause any adjustment to be either added to or subtracted from amounts due the chapter II retirement system.

Audit of aggregate compensations; evidence of correctness.

(e) The superintendent of public instruction may require such evidence of correctness and/or may conduct such audit of the aggregate compensations as he considers necessary to establish their correctness.

Pension reserves computation for retirants and members; amortization and financing of pension funds.

(f) Annually or periodically, as determined by the legislature, there shall be submitted to the legislature an actuarial report determined in the following manner, upon the basis of such mortality and other experience tables, and regular interest, as the retirement commission shall adopt from time to time, the actuary designated by the retirement commission shall compute the pension reserves required for pensions being paid retirants and beneficiaries under this chapter, and the required pension reserves covering service rendered and to be rendered by members of the retirement system. The pension reserves so computed shall be financed by annual state allocations in accordance with sections 11 and 24 of article 9 of the state constitution determined according to paragraphs (1), (2), (3) and (4) of this subsection as follows:

(1) After June 30, 1964, the financing of members' current service shall be a per cent of their aggregate annual compensations which will produce an amount, which if paid annually during their future service, will be sufficient to provide the reserves, at the time of their retirements, for the pensions to be paid them based upon their service rendered and to be rendered after June 30, 1964. As provided in section 24 of article 9 of the state constitution, such current service financing shall not be used for financing unfunded accrued liabilities arising on account of service rendered prior to July 1, 1964; and

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(2) The unfunded accrued pension liabilities arising because of service rendered prior to July 1, 1964 shall be amortized over a period of the members', retirants' and beneficiaries' average future remaining lifetimes; and

(3) The financing of casualty pensions shall be on a terminal funding basis; and

(4) The financing of the employer's social security tax shall be such amount as required according to the rates as are established by the United States Congress.

Allocation from school aid funds.

(g) There are hereby allocated from school aid funds such amounts as from year to year are required to effectuate the provisions of this section.

HISTORY: Am. 1947, p. 329, Act 225, Eff. Oct. 11;—CL 1948, 38.345;—Am. 1954, p. 408, Act 170, Eff. Jul. 1;—Am. 1955, p. 351, Act 234, Imd. Eff. Jun. 18;—Am. 1966, p. 13, Act 3, Eff. Jul. 1.

38.346 Retirement commission; trustee of retirement funds; management, investment, mortgage loans.

Sec. 46. The retirement commission shall be the trustees of the several funds provided for in this chapter and shall have full power to manage such funds subject to all terms, conditions, limitations and restrictions imposed by the law of Michigan upon life insurance companies in the making and disposing of their investments, and as provided by law relating to investment authority of public employee retirement systems. Mortgage loans may be made on facilities leased or to be leased to the United States government, to any state or to any agency, authority or instrumentality of either where the lease rentals are assigned to the retirement system. Such loans shall not be subject to the provisions of sections 908 and 942 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.908 and 500.942 of the Compiled Laws of 1948. Such loans heretofore and hereafter made shall be legal investments for the retirement system.

HISTORY: CL 1948, 38.346;—Am. 1965, p. 62, Act 43, Imd. Eff. May 25.

38.347 Retirement funds and regular annuity savings fund individual balances; interest, payment.

Sec. 47. The retirement commission, at the close of each fiscal year, shall allow regular interest on the mean amount of assets credited to the various funds; and on each member's individual balance in the regular annuity savings fund at the beginning of the fiscal year, less any part of the balance he may have had refunded to him during the fiscal year. The interest so allowed shall be due and payable to the funds from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the regular interest on the funds of the retirement system shall be paid from the pension accumulation fund and any excess of earnings over such amount required shall become a part of the assets of the retirement system.

HISTORY: CL 1948, 38.347;—Am. 1951, p. 280, Act 204, Imd. Eff. Jun. 14;—Am. 1962, p. 565, Act 239, Eff. Mar. 28, 1963.

38.348 Method of making payments.

Sec. 48. All payments shall be made by the city treasurer only upon warrants signed by 2 persons designated by the retirement commission. A copy of the resolution of the retirement commission designating such persons and specimen signatures thereof shall be filed with the city treasurer as his authority for making payments. No warrant shall be drawn unless the expenditure shall have been previously authorized by resolution of the retirement commission.

HISTORY: CL 1948, 38.348;—Am. 1954, p. 408, Act 170, Eff. Jul. 1.

38.349 Retirement funds; maximum cash balance required; securities; separate and distinct trust; tax exemption.

Sec. 49. For the purpose of meeting disbursements for pensions, annuities, and other payments, there may be kept on deposit available cash, not exceeding 10 per centum of the total amount in the several funds of the retirement system.

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The retirement commission shall have the authority to require any bank, trust company or other form of depository having on deposit any funds of this retirement system to set aside and/or to pledge government bonds to secure said deposits.

Each fund of this retirement system shall constitute a separate and distinct trust to be used solely for the purpose indicated in this chapter.

Cash and other investments of the separate trust funds of this retirement system shall be exempt from the payment of any and all taxes of whatever nature.

HISTORY: CL 1948, 38.349;—Am. 1949, p. 162, Act 152, Imd. Eff. May 24.

38.350 Right to pension, annuity or retirement allowance; assignment prohibited; exemption from legal process.

Sec. 50. Assignments prohibited. The right of a person to a pension, an annuity or a retirement allowance, to return of contributions, the pension annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this retirement system and the moneys in the various funds created by this retirement system shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and shall be unassignable except as in this retirement system specifically provided.

HISTORY: CL 1948, 38.350.

38.351 Protection against fraud.

Sec. 51. Protection against fraud. Whoever with intent to deceive, shall make any statements and/or reports required under this retirement system which are untrue, or shall falsify or permit to be falsified any record or records of this retirement system, or who shall otherwise violate with intent to deceive, any of the terms or provisions of this retirement system, shall be fined not to exceed $500, or 90 days imprisonment in the Detroit house of correction, or both.

HISTORY: CL 1948, 38.351.

38.352 Correction of errors.

Sec. 52. Errors. Should any change or error in the records result in any member or beneficiary receiving from the retirement system, more or less than he would have been entitled to receive had the records been correct, the retirement commission shall correct such error, and as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

HISTORY: CL 1948, 38.352.

38.353 Limitations of other statutes and laws; severability.

Sec. 53. Limitations of other statutes and laws. (a) No other provision of law, charter, ordinance, which provides wholly or partly at the expense of the city, whether appropriated for or not, for pensions or retirement benefits for employees of the board of education, their widows, or other dependents, shall apply to members or beneficiaries of the retirement system, their widows or other dependents; except as to the refund of the contributions to which they might be entitled upon their separation from service prior to becoming entitled to retirement benefits.

(b) If any part, chapter, section, subsection, sentence, clause or phrase of this retirement system is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining parts, sections, subsections, sentences, clauses and phrases of this retirement system, or the retirement system as an entirety.

HISTORY: CL 1948, 38.353.

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38.354 Unclaimed retirement allowance.

Sec. 54. Upon death of a retirant or a beneficiary or separation from service of a member, any unclaimed retirement allowance or other funds otherwise payable on account of such separation or death shall remain a part of the respective funds until claimed by the separated member, his beneficiary or his legal representative.

HISTORY: Add. 1954, p. 408, Act 170, Eff. Jul. 1.

38.355 Federal social security old-age and survivors' insurance coverage; options, notice, referendum.

Sec. 55. Section 218 (d) of title II of the federal social security act, as amended, and Michigan Public Act No. 205 of the Public Acts of 1951, as amended, being sections 38.851 to 38.870, inclusive, of the Compiled Laws of 1948, provide certain conditions for coverage of public employees in positions covered by a retirement system.

Any member, with respect to retroactive old age and survivors insurance employee taxes if any, shall within 30 days after a contract between the Michigan old age and survivors insurance administration and the board of education is entered into have the option to either (1) make such retroactive tax payments to the board of education for transmittal to the proper agency or (2) authorize payment of same from their accumulated deposits.

Notice of such option right shall be included with notice of referendum sent each member. Failure to exercise option 1 as herein provided shall constitute acceptance of option 2.

The employer's retroactive social security taxes and all future employer social security taxes paid from funds which otherwise would have been paid by the board of education to the retirement system shall be reimbursed by appropriation to be made by the legislature in the same manner as provided for the chapter I retirement system.

The legislature shall appropriate for the chapter II retirement system a sum representing the same per cent of the aggregate compensations of all members of the chapter II retirement system as may from time to time be appropriated for the chapter I retirement system for the retirement liabilities for school district members of the chapter I retirement system.

HISTORY: Add. 1955, p. 278, Act 185, Eff. Jan. 12, 1956;—Am. 1956, p. 273, Act 144, Imd. Eff. Apr. 16.

38.356 Wayne state university employees' retirement system.

Sec. 56. Wayne state university having become a state agency on July 1, 1956, the following retirement provisions shall apply thereto, on and after July 1, 1958, notwithstanding any other provisions of Act No. 183 of the Public Acts of 1956 or this act.

Definitions.

(1) As used in this section, unless a different meaning is clearly indicated by the context:

(a) "Board of governors" means the board of governors of Wayne state university.

(b) "Board of education" means the board of education of the city of Detroit.

(c) "Retirement commission" means the retirement commission of the employees retirement system of the school district of the city of Detroit.

(d) "Retirement system" means the employees retirement system of the school district of the city of Detroit, created and established by this chapter.

(e) "Wayne service" means creditable service of an employee of the board of education who has been transferred to Wayne state university and includes creditable service prior to such transfer and service as an employee of the board of governors of Wayne state university thereafter.

(f) "Wayne retirement allowance" means the annuity, pension or retirement allowance payable to a person on account of his Wayne service.

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Payment of retirement allowances; prior to July 1, 1958.

(2) Wayne retirement allowances payable on account of Wayne service terminating prior to July 1, 1958, shall be paid by the retirement system in accordance with the retirement system provisions in force at the time of such termination.

Same; after July 1, 1958.

(3) Persons who are employees of Wayne state university on July 1, 1958, on said date shall cease to be members of the retirement system. Any such person who is also employed by the board of education shall continue to be a member of the retirement system with respect only to his board of education employment.

Separation of employees from Detroit school employee retirement system; determination of actuary.

(4) A determination shall be made by the actuary for the legislative retirement system provided in sections 39 and 46 of Act No. 261 of the Public Acts of 1957, being sections 38.1039 and 38.1040 of the Compiled Laws of 1948, of the respective rights and the liabilities as to each other of the board of governors and the retirement commission out of the separation of the employees of the board of governors from the employees' retirement system. The respective debits and credits shall be determined as follows:

(a) The board of governors shall be debited and the retirement commission shall be credited with the amounts paid and the actuarily determined liability for the amounts to be paid as retirement benefits to the persons included in subsection 2, giving due allowance for the annuity deposits of the employees included therein.

(b) The board of governors shall be credited and the retirement commission shall be debited with the normal and supplemental annuity deposits to the credit of the employees included in subsection 3.

(c) The board of governors shall be credited and the retirement commission shall be debited with such portion of the assets of the retirement commission, exclusive of the normal and supplemental annuity deposits held by it as shall equitably represent the interest of the employees included in subsections 2 and 3, having in mind the source of the funds and the interests and equities of all members, retirants and beneficiaries of the retirement system, all as of July 1, 1956.

Same; transfer of securities; payment.

(5) The payments required by the determination provided for in section 4 shall be made on or before December 31, 1958. Should this determination require a payment by the retirement commission to the board of governors, the retirement commission may transfer in lieu of cash securities held by it. The securities shall not have defaulted with respect to principal and interest payments and shall have an average yield and maturity equal to the average yield and maturity of all assets of the retirement system for the fiscal year ending June 30, 1956.

HISTORY: Add. 1958, p. 86, Act 79, Eff. Sep. 13.

38.357 Supplemental pension; conditions for payment; reversion of unused funds.

Sec. 57. There shall be payable as a supplemental pension to a former teacher or his beneficiary, whose effective date of retirement was prior to July 1, 1956, an amount, which, when added to his normal retirement allowance, payable under the provisions of this and predecessor acts for retired school employees of a school district of the first class, shall provide a minimum retirement allowance, before reduction for option election as provided in section 37 of this chapter, of $60.00 times not to exceed 30 years of service credit at time of retirement or death adjusted to the nearest even number of years. A former nonteacher or his beneficiary shall be paid a minimum retirement allowance which shall be the same percentage of increase above provided computed ac-

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cording to the year of retirement or death as applicable. Subject to the provisions of section 25 of this chapter, the supplemental pension shall be paid only during those fiscal years for which funds are provided by the legislature out of general funds of the state for this specific purpose. Any sums provided by the legislature for payment of the supplemental pensions remaining unused at the end of each fiscal year shall revert to the general fund.

HISTORY: Add. 1965, p. 661, Act 337, Imd. Eff. Jul. 23.

Act 78, 1958, p. 84; Eff. Sep. 13.

AN ACT to provide retirement benefits for certain employees of the board of governors of Wayne state university; and to make provisions for settlement of the respective annuity and pension liabilities in relation thereto.

The People of the State of Michigan enact:

38.371 Wayne state university employees' retirement system; definitions.

Sec. 1. As used in this act:

(a) "Board of governors" means the board of governors of Wayne state university.

(b) "Board of education" means the board of education of the city of Detroit.

(c) "Retirement commission" means the retirement commission of the employee retirement system of the school district of the city of Detroit.

(d) "Retirement system" means the employee retirement system of the school district of the city of Detroit created and established by chapter 2 of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.301 to 38.355 of the Compiled Laws of 1948.

(e) "Wayne service" means creditable service of an employee of the board of education who has been transferred to Wayne state university and includes creditable service prior to such transfer and service as an employee of the board of governors of Wayne state university thereafter.

(f) "Wayne retirement allowance" means the annuity, pension or retirement allowance payable to a person on account of Wayne service.

HISTORY: New 1958, p. 84, Act 78, Eff. Sep. 13.

38.372 Retirement allowance; payment prior to July 1, 1958.

Sec. 2. Wayne retirement allowances payable on account of Wayne service terminating prior to July 1, 1958, shall be paid by the retirement system in accordance with the retirement system provisions in force at the time of such termination.

HISTORY: New 1958, p. 85, Act 78, Eff. Sep. 13.

38.373 Retirement allowance; payment after July 1, 1958.

Sec. 3. Wayne retirement allowances on account of Wayne service not terminated prior to July 1, 1958, shall cease to be the obligation of the retirement system on July 1, 1958, and shall become the sole obligation of the board of governors. If any person included in the foregoing provisions has also continued in the employ of the board of education, the respective obligations of the retirement commission and the board of governors shall be settled by their mutual agreement, or if unable to agree, by the actuary hereinafter designated.

Establishment of retirement program.

In fulfillment of the obligations herein placed on it, the board of governors shall provide a retirement program with benefits for Wayne service prior to July 1, 1958, substantially equal to those provided in chapter 2 of Act No. 136 of the Public Acts of 1945, as amended, to June 30, 1956, or in the alternative the board of governors at its

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option shall provide total benefits at termination of employment substantially equal to those which would have been payable had the entire Wayne service been under the provisions of the aforesaid act and the retirement system which it established. Wayne service after July 1, 1958, shall be counted towards fulfillment of conditions applicable to the period of employment required for the vesting of rights and benefits under the provisions of said act.

HISTORY: New 1958, p. 85, Act 78, Eff. Sep. 13.

38.374 Separation of employees from Detroit school district employees retirement system; actuarial determination of credits and debits of board of governors and retirement commission.

Sec. 4. A determination shall be made by the actuary for the legislative retirement system provided in sections 39 and 46 of Act No. 261 of the Public Acts of 1957, being sections 38.1039 and 38.1040 of the Compiled Laws of 1948, of the respective rights and the liabilities as to each other of the board of governors and the retirement commission out of the separation of the employees of the board of governors from the employees' retirement system. The respective debits and credits shall be determined as follows:

(a) The board of governors shall be debited and the retirement commission shall be credited with the amounts paid and the actuarily determined liability for the amounts to be paid as retirement benefits to the persons included in section 2, giving due allowance for the annuity deposits of the employees included in section 2.

(b) The board of governors shall be credited and the retirement commission shall be debited with the normal and supplemental annuity deposits to the credit of the employees included in section 3.

(c) The board of governors shall be credited and the retirement commission shall be debited with such portion of the assets of the retirement commission, exclusive of the normal and supplemental annuity deposits, held by it as shall equitably represent the interest of the employees included in sections 2 and 3, having in mind the source of the funds, the method of payment authorized by section 5, and the interests and equities of all persons in the retirement system, all as of July 1, 1956.

HISTORY: New 1958, p. 85, Act 78, Eff. Sep. 13.

38.375 Separation of employees from Detroit school retirement system; payments required; transfer of securities.

Sec. 5. The payments required by the determination provided for in section 4 shall be made on or before December 31, 1958. Should this determination require a payment by the retirement commission to the board of governors, the retirement commission may transfer in lieu of cash securities held by it. The securities shall not have defaulted with respect to principal and interest payments and shall have an average yield and maturity equal to the average yield and maturity of all assets of the retirement system for the fiscal year ended June 30, 1956.

HISTORY: New 1958, p. 85, Act 78, Eff. Sep. 13.

38.376 Separation of employees from Detroit school retirement system; payment of $1,000,000 by board of education to board of governors.

Sec. 6. The board of governors shall accept the proposal of the board of education for the payment by the board of education to the board of governors in fulfillment of any obligations of the board of education with reference to retirement benefits for the persons included in the provisions of sections 2 and 3 of the sum of $1,000,000.00 on or before June 30, 1965, in approximately equal annual installments with interest of 3% per annum on unpaid balances after July 1, 1958.

HISTORY: New 1958, p. 86, Act 78, Eff. Sep. 13.

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Act 156, 1967, p. 217; Imd. Eff. Jun. 30.

AN ACT to authorize the boards of control of certain state supported institutions of higher education to establish optional retirement programs for their teaching and administrative personnel.

The People of the State of Michigan enact:

38.381 Optional retirement act of 1967; short title.

Sec. 1. This act shall be known and may be cited as the "optional retirement act of 1967".

HISTORY: New 1967, p. 217, Act 156, Imd. Eff. Jun. 30.

38.382 Optional retirement act; definitions.

Sec. 2. As used in this act:

(a) "Optional retirement program" means a system of retirement benefits established as a part of the plan of compensation for eligible teaching and administrative personnel.

(b) "Retirement system" means the Michigan public school employees' retirement system provided for in chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.234 of the Compiled Laws of 1948.

(c) "Eligible employees" means the members of the faculty and administrative staff of state supported institutions of higher education on a full-time basis whose positions require the performance of professional services in the discharge of the educational or administrative functions of the institution.

(d) "State supported institutions of higher education" means western Michigan university, eastern Michigan university, northern Michigan university, central Michigan university, Michigan technological university and Ferris state college.

(e) "Boards of control" means the boards charged with policy direction of state supported institutions of higher education.

HISTORY: New 1967, p. 217, Act 156, Imd. Eff. Jun. 30;—Am. 1968, p. 274, Act 185, Imd. Eff. Jun. 20.

38.383 Optional retirement program; establishment; participation of eligible employees, terms and conditions.

Sec. 3. An optional retirement program for eligible employees of state supported institutions of higher education is established. A board of control shall make the program available to all eligible employees in the component institutions, agencies and units subject to its control. Eligible employees may participate in the program, subject to such rules as may be prescribed by the board of control for its institution including provisions for classification and terms and conditions on which employees may participate.

HISTORY: New 1967, p. 217, Act 156, Imd. Eff. Jun. 30.

38.384 Board of control; purchase of contracts providing for optional program benefits for employees.

Sec. 4. In the administration of the optional retirement program, a board of control shall provide for the purchase of contracts providing retirement and death benefits for or on behalf of eligible employees electing to be covered by the optional retirement program.

HISTORY: New 1967, p. 217, Act 156, Imd. Eff. Jun. 30.

38.385 Optional retirement system; election of employees, time.

Sec. 5. (1) An eligible employee, as of the date the optional retirement program becomes available and who is a member of the retirement system, may continue his membership in the retirement system or may elect to participate in the optional retire-

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ment program and retain a limited membership in the retirement system as hereinafter provided.

(2) An employee becoming eligible subsequent to the date the optional retirement program becomes available may elect to become a member of the retirement system or may elect to participate in the optional retirement program.

(3) Within 90 days from the date the optional retirement program becomes available at the state supported institution of higher education, eligible employees shall elect to participate or not to participate. An employee who becomes eligible to participate in the optional retirement program subsequent to the date such program becomes available shall make his election within 90 days following the date on which he qualifies as an eligible employee. An eligible employee not exercising the option to participate in the optional retirement program is deemed to have elected membership in the retirement system.

HISTORY: New 1967, p. 217, Act 156, Imd. Eff. Jun. 30.

38.386 Optional retirement programs; participation; computation of credits and benefits; refunds.

Sec. 6. (1) An eligible employee electing to participate in the optional retirement program in accordance with section 5 (1) is deemed to be a limited member of the retirement system for the purpose of determining his eligibility for rights and benefits in the retirement system. His continued service with a state supported institution of higher education while under the optional retirement program is deemed to be member service in the retirement system for the purpose of determining his eligibility for any retirement benefits dependent upon a specified period of total service or upon attainment of a specified age while in service.

(2) If an eligible employee who has elected to participate in the optional retirement program in accordance with section 5 (1) terminates service or dies, prior to his becoming eligible for a retirement benefit, he or his named beneficiary, is entitled to a refund of his contributions to the retirement system, including interest at the rate of 2-1/2% per annum.

(3) If an eligible employee has elected to participate in the optional retirement program and retains a limited membership in the retirement system in accordance with section 5 (1), the basis for computation of his retirement benefits under the retirement system after his election to participate in the optional retirement program shall be:

(a) The credited service as of the time of making the election, and

(b) The average of his annual compensation for those 5 consecutive years prior to the time of making the election which produces the highest amount, or, the average of his annual compensation prior to the time of making the election if his total credited service is less than 5 years.

(4) An eligible employee electing to participate in the optional retirement program, and his beneficiaries, is not entitled to any right or benefit under the retirement system other than to the extent the rights and benefits are expressly provided for in this section.

HISTORY: New 1967, p. 218, Act 156, Imd. Eff. Jun. 30.

38.387 Optional retirement programs; employee and state contributions.

Sec. 7. For an eligible employee who has elected in accordance with section 5 to participate in the optional retirement program, the following amounts shall be disbursed and credited each fiscal year to his benefit in the optional retirement program:

(a) By the eligible employee, the amount which he would have been required to contribute during the year as a member of the retirement system.

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(b) By the state supported institution of higher education, from funds subject to its control the amount equal to not more than that which it would be required to contribute based on the eligible employee's compensation during that year to the retirement system less: (i) an amount equal to that required by federal statutes as the employer's contributions under the federal insurance contribution act for that employee, and (ii) an amount equal to that required to be paid to the retirement system for members' accrued service under subsection (b) of section 27 of chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, being section 38.227 of the Compiled Laws of 1948, which amount shall be deposited in the pension accumulation fund established in section 12 of chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, being section 38.212 of the Compiled Laws of 1948.

(c) From the eligible employee such amounts, in addition to those required under paragraphs (a) and (b), as may be determined by the board of control.

HISTORY: New 1967, p. 218, Act 156, Imd. Eff. Jun. 30;—Am. 1968, p. 274, Act 185, Imd. Eff. Jun. 20.

38.388 Federal social security old-age, survivors' and disability insurance coverage.

Sec. 8. An eligible employee electing to participate in the optional retirement program shall have old-age, survivors and disability insurance coverage provided by the federal social security act.

HISTORY: New 1967, p. 218, Act 156, Imd. Eff. Jun. 30.

Act 370, 1941, p. 711; Eff. Jan. 10, 1942.

AN ACT to establish and provide a civil service system in each of the counties of the state, now or hereafter having a population of 1,000,000 or more, according to the latest or each succeeding federal decennial census, and the various commissions, boards, departments and agencies thereof; to create a civil service commission, and to prescribe the powers and duties thereof; to provide certain exemptions from and classifications in civil service; to prescribe penalties for the violation of the provisions of this act; and to prescribe the manner of adoption of this act by each county. Am. 1959, p. 422, Act 265, Imd. Eff. Sep. 4.

The People of the State of Michigan enact:

38.401 County civil service system; purpose of act.

Sec. 1. Civil service act; purpose. The purpose of this act is to guarantee to all citizens a fair and equal opportunity for public service; to establish conditions of service which will attract officers and employees of character and capacity, and to increase the efficiency of the county governmental departments, commissions, boards and agencies, by the improvement of methods of personnel administration.

HISTORY: CL 1948, 38.401.

COMPILERS' NOTE: The catchlines following the act section numbers of this act were incorporated as a part of the act when enacted.

CITED IN OTHER SECTIONS: Sections 38.401 to 38.428 are cited in §§ 35.401, 48.37, 51.351, 331.212a, 600.565, 600.579, 728.4, and 771.7.

38.402 County civil service system; adoption by referendum.

Sec. 2. Upon the adoption of a resolution therefor by a majority vote of the members-elect of the board of supervisors of any county now or hereafter having a population of 1,000,000 or more, according to the latest or each succeeding federal decennial census, the question of adopting the county civil service system, as provided for in this act, shall be submitted to a vote of the electors of such county. The question shall be submitted and placed on the ballot at the next general or special election.

HISTORY: CL 1948, 38.402;—Am. 1959, p. 423, Act 265, Imd. Eff. Sep. 4.

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38.403 Referendum; time, notice, statement of question.

Sec. 3. Election; time, notice. At least 3 weeks shall intervene between the adoption of the resolution by the board of supervisors and the time of holding such election. After the adoption of the resolution by the board of supervisors the county clerk shall give like notice of the submission of the question of the adoption of the county civil service system as is required by law in the case of elections to elect county officers. Said notice shall set forth the action of the board of supervisors and that the question will be stated on the ballot to be used at such election as follows: Shall the county civil service system, as provided for by Act No. .... of the Public Acts of 1941, be adopted in the county of .....?

HISTORY: CL 1948, 38.403.

38.404 Referendum; ballot, statement of question.

Sec. 4. Same; ballots. Ballots shall be prepared and distributed, in the manner required by law, by the same officers prescribed by law for general elections. The question shall be stated on the ballot as follows, viz.: Shall the county civil service system, as provided for by Act No. .... of the Public Acts of 1941, be adopted in the county of .....? and immediately below and on different lines shall be printed the word "yes" and the word "no."

HISTORY: CL 1948, 38.404.

38.405 Act to become effective upon adoption of system.

Sec. 5. Same; results. If upon the canvass of the votes cast at such election it shall appear that the majority of the electors voting thereon shall have voted "yes," then the county civil service system shall be considered as adopted in such county, and thereupon the provisions of this act and all other acts relative to such system shall be and become operative in such county.

HISTORY: CL 1948, 38.405.

38.406 County civil service commission; creation.

Sec. 6. Civil service commission. In any county where the county civil service system shall be adopted under the provisions of this act, there shall be a civil service commission.

HISTORY: CL 1948, 38.406.

38.407 Civil service commission; membership, terms, vacancies, eligibility, quorum, removal.

Sec. 7. Same; members, term, eligibility, appointment; vacancies; removal, manner. The board of supervisors shall, at its next regular or special session, after the adoption of this act in any county, appoint, by a majority vote of the members-elect, 3 electors of the county as members of the civil service commission to take office as soon as appointed and qualified, and who shall serve for the following terms as designated in the resolution of appointment: One member for a term expiring 2 years from December 31 of that year, 1 member for a term expiring 4 years from December 31 of that year, and 1 member for a term expiring 6 years from December 31 of that year. Thereafter the board of supervisors shall biennially, at either the October or April session of that board, appoint by majority vote 1 civil service commissioner for a term of 6 years to take office on January 1 of the next year and succeed the commissioner whose term shall next expire. The commissioner whose term shall next expire shall serve as chairman of the commission. Any vacancy occurring on said commission shall be filled for the unexpired term by the board of supervisors by a majority vote of the members-elect. Each commissioner shall serve until his successor is appointed and qualified. No commissioner shall hold any other public office, except that of notary public, or be employed by the county or any other governmental agency, or any board, commission or department thereof in any other capacity. Each commissioner shall have been a res-

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ident of the county for 5 years next preceding his appointment and shall be an elector of the county. One commissioner shall be appointed from the county seat or the metropolis of the county, 1 commissioner shall be appointed from outside the county seat or metropolis, and the third member shall be appointed by reason of his knowledge of or experience in employment methods. Not more than 2 of the commissioners so appointed shall be members of the same political party. Two members of the commission shall constitute a quorum thereof. The board of supervisors by a 2/3 vote of all the members-elect may remove a commissioner during his term of office, but only after serving such commissioner with a statement in writing of the reasons for such removal, and allowing him an opportunity to be represented and publicly heard in his defense.

HISTORY: CL 1948, 38.407.

38.408 Civil service commission; members, compensation and expenses.

Sec. 8. Each commissioner shall receive compensation for each day's service for not to exceed 200 days in any 1 year, and such necessary traveling expenses and mileage as may be incurred in the actual performance of his duties; the number of days of service and such compensation and expenses to be fixed by the county board of supervisors.

HISTORY: CL 1948, 38.408;—Am. 1951, p. 111, Act 81, Eff. Sep. 28.

38.409 Civil service commission; personnel director, assistants and employees; selection, compensation; contracts for services to municipalities; conditions of employment; discrimination prohibited.

Sec. 9. The commission shall choose by competitive examination a personnel director upon a basis of education, technical knowledge of personnel work and knowledge of county government and its operation, and such other assistants and employees as may be necessary. The personnel director, who shall also act as chief examiner, shall hold no other public office except notary public, or be employed by the county or any other governmental agency or any board, commission or department thereof in any other capacity. The compensation of the personnel director and other assistants and employees shall be fixed by the commission subject to the approval of the board of supervisors. The personnel director shall act as secretary of the commission. The commission, if authorized by the board of supervisors and subject to their approval, may contract with cities, villages, townships or school districts within the county or with an adjoining county for such use and services of its examiners, clerks, offices and facilities of the county civil service system as may be requested. The civil service commission shall provide by regulation for the hours and conditions of service, for the length and period of vacations, and for the regulation of sick leaves in the county service, and for such other matters pertaining to the carrying out of the provisions of this act. No applicant shall be required by any rule or regulation of the commission to submit photographs for the purpose of identification nor shall any such applicant be discriminated against by reason of race, color, creed or political affiliation.

HISTORY: CL 1948, 38.409;—Am. 1959, p. 54, Act 52, Eff. Mar. 19, 1960.

38.410 Civil service classification.

Sec. 10. The civil service of the county is divided into the unclassified and classified services.

(a) The unclassified service includes:

(1) Officers elected by popular vote and persons appointed to fill vacancies in such elective offices.

(2) Officers and employees for whom the constitution specifically directs the manner of appointment.

(3) Members of boards and commissions required by law to be appointed.

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(4) A deputy or assistant in each of the elective offices, who, in the case of a vacancy in the elective office or inability of such elective officer to perform his duties, would be entitled to perform the duties of the office until the vacancy is filled or the inability removed.

(5) Commissions appointed by the board of supervisors, or by the board of county auditors, under the general law of the state.

(6) Court reporters of all courts of record, except the probate courts, shall be exempt from the classified service under the provisions of this act.

(7) County health director.

(8) The chief clerk of any court of record who is required by law to be appointed by the board of auditors on recommendation of the judges of the court.

(9) The director of labor relations in the county.

(b) The classified service comprises all positions not specifically included by this act in the unclassified service.

HISTORY: CL 1948, 38.410;—Am. 1959, p. 335, Act 231, Eff. Mar. 19, 1960;—Am. 1962, p. 87, Act 99, Eff. Mar. 28, 1963;—Am. 1963, p. 216, Act 152, Imd. Eff. May 14;—Am. 1964, p. 75, Act 71, Eff. Aug. 28;—Am. 1969, p. 53, Act 24, Imd. Eff. Jul. 3.

38.411 Civil service commission; meetings, procedure, record, quorum.

Sec. 11. Meetings, records. Quorum. The commission shall hold meetings regularly, at least once a month, and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings and records of the commission shall be public, except as herein otherwise provided.

HISTORY: CL 1948, 38.411.

38.412 Civil service commission; powers and duties.

Sec. 12. The powers and duties of the commission shall be as follows:

Classification of positions; examination.

(a) It shall classify all the offices and positions of employment with reference to the examinations herein provided for, excepting as herein otherwise provided;

Rules and regulations, examination, selection of appointees.

(b) Shall from time to time make, in accordance with the provisions hereof, rules adapted to carry out the purposes of this act and not inconsistent with its provisions for the examination and selection of persons to fill the offices and positions in the classified service, which are required to be filled by appointment, and for the selection of persons to be employed in the service of the county;

Administration of rules; examinations, notice; eligibility list.

(c) Shall supervise the administration of the civil service rules, hold examinations thereunder from time to time, giving notice thereof, prepare and keep an eligible list of persons passing such examinations and certify the names of persons thereon to the appointing officers of the several departments;

Enforcement, investigation, witnesses.

(d) Shall, by itself or otherwise, investigate the enforcement of the provisions of this act, of its own rules and of the action of appointees in the classified service. In the course of such investigation, the commission or its authorized representative, shall have the power to administer oaths, and the commission shall have power by its subpoena, to secure, both the attendance and testimony of witnesses and the production of books and papers relevant to such investigations;

Supplies.

(e) Shall provide, through the purchasing department of the county, all needed supplies for the use of the commission;

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38.415 Classified civil service; vacancies, promotion, basis.

Sec. 15. Whenever possible, vacancies shall be filled by promotion. Promotion shall be made from among employees qualified by training and experience to fill the vacancy, and whose length of service entitles them to consideration. The commission shall, for the purpose of promotion, rate such employees so qualified on the basis of their service record if maintained, experience in the work involved in the vacant position, training and qualification for such work, seniority and war service ratings. Seniority shall be controlling only when other factors are equal. Only 1 name, the highest on the list of ratings, shall be certified. The appointing authority shall then appoint the person so qualified forthwith, or elect to make an original appointment, in which event the procedure for original appointments hereinbefore provided shall be followed.

HISTORY: CL 1948, 38.415;—Am. 1951, p. 112, Act 81, Eff. Sep. 28;—Am. 1957, p. 301, Act 241, Eff. Sep. 27.

38.416 Classified civil service; removal, suspension or reduction, procedure; appeal, hearing; findings of civil service commission.

Sec. 16. Any officer or employee in the classified civil service may be removed, suspended or reduced in rank or compensation by the appointing authority, after appointment or promotion is complete, by an order in writing, stating specifically the reasons therefor. The order shall be filed with the civil service commission and a copy thereof shall be furnished to the person to be removed, suspended, or reduced. The employee may reply in writing to the order within 5 days from the date of filing the order with the civil service commission. Any person removed, suspended, or reduced in rank or compensation, within 20 days after presentation to him of the order of removal, suspension, or reduction, may appeal to the civil service commission from such order. The commission within 2 weeks from the filing of the appeal, shall commence the hearing thereon, and shall thereupon fully hear and determine the matter, and either affirm, modify or revoke such order. The appellant shall be entitled to appear personally, produce evidence, and to have counsel and a public hearing. The finding and decision of the commission shall be certified to the official from whose order the appeal is taken, and shall forthwith be enforced and followed by him. If the order of the appointing authority is affirmed by the commission, the effective date of the order shall stand as issued by the appointing authority. If the order of the appointing authority is modified by the commission, compensation and other benefits shall be in accordance with and in proportion to the extent of such modification. If the order of the appointing authority is revoked by the commission, all compensation and other benefits which would have accrued to the employee from the effective date of the order shall be restored to him.

HISTORY: CL 1948, 38.416;—Am. 1961, p. 105, Act 96, Eff. Sep. 8.

38.417 Civil service commission; annual report to board of supervisors.

Sec. 17. The commission shall make an annual report to the board of supervisors at its October session each year, or at any other time as may be required by said board of supervisors.

HISTORY: CL 1948, 38.417.

38.418 Payrolls; approval by civil service commission.

Sec. 18. All payrolls shall be approved by the civil service commission, or by its secretary when so authorized by the commission, before payment.

HISTORY: CL 1948, 38.418.

38.419 Civil service employees; soliciting for political purposes prohibited.

Sec. 19. Politics, unlawful solicitation. No officer or employee of the county in the classified civil service, shall directly or indirectly make, solicit, or receive, or be in any manner concerned in making, soliciting or receiving any assessment, subscription, or

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contribution for any political party or any political purpose whatsoever. Any employee violating the provisions of this section may be removed from the office.

HISTORY: CL 1948, 38.419.

38.420 Civil service commission; powers of investigation.

Sec. 20. Commission, investigation powers. The commission, for the purpose of carrying into effect the civil service provisions of this act, shall have power to investigate the conduct and operation of any department or board, and to subpoena and require the attendance of witnesses and the production of books and papers, and to administer oaths.

HISTORY: CL 1948, 38.420.

38.421 Civil service commission; authority to require medical examinations.

Sec. 21. The commission shall have power and authority to call upon the services of county physicians or medical examiners to make such medical examinations as may be required by the commission.

HISTORY: CL 1948, 38.421.

38.422 Civil service commission; power to subpoena witnesses and evidence; noncompliance, penalty; enforcement.

Sec. 22. Subpoena, failure to comply, penalty, fees; circuit court summoning witnesses; perjury. Any person who shall be served with a subpoena to appear and testify, or to produce books and papers issued by the commission or by any commissioner, or by any authorized representative of the commission, in the course of the investigation conducted under the provisions of this chapter, and who shall refuse or neglect to appear or to testify as commanded in such subpoena, shall be guilty of a misdemeanor, and shall, on conviction, be punished as herein provided. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses in the circuit court for the county, and shall be paid from the appropriation for the expenses of the commission. The judge of the circuit court, either in term or vacation, upon application of any such commissioner, shall compel the attendance of witnesses, the production of books and papers and giving of testimony before the commission or before any commissioner, or authorized representative, by attachment for contempt or otherwise in the same manner as the production of evidence may be compelled before said court. Every person who, having taken an oath or made affirmation in such proceeding, shall swear or affirm wilfully, corruptly, or falsely, shall upon conviction be deemed guilty of a misdemeanor.

HISTORY: CL 1948, 38.422.

38.423 Violation of act; penalty.

Sec. 23. Penalty. Any person who shall knowingly violate any of the provisions of this act, and any person who shall neglect or refuse to perform any duty enjoined upon him thereby, shall be guilty of a misdemeanor. When, by this act, any act or duty is required to be done by or under the supervision or authority of any officer, and such act or duty shall not be done or performed, then the officer who shall have wilfully neglected to perform such duty, or shall have wilfully permitted the omission or nonperformance of such duty or act, shall be guilty of a misdemeanor. Any person who shall be convicted of any of the acts or omissions which are by this act declared to be misdemeanors, shall be punished by a fine of not less than $50.00, nor more than $500.00, or by imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1948, 38.423.

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38.424 Classified civil service; discrimination prohibited.

Sec. 24. Discrimination prohibited. No person in the classified civil service or seeking admission thereto, shall be appointed, reduced or removed, or in any way favored or discriminated against because of his political, racial, or religious opinions or affiliations, except for membership in any organization which has advocated or does advocate disloyalty to the government of the United States or any subdivision thereof.

HISTORY: CL 1948, 38.424.

38.425 Civil service commission; offices.

Sec. 25. Rooms and accommodations. The commission shall be provided with suitable offices, examination rooms, and accommodations for itself and staff, as may be required to suit the public convenience and carry on the work of the commission.

HISTORY: CL 1948, 38.425.

38.426 Board of supervisors; appropriations.

Sec. 26. Appropriation. The board of supervisors shall provide the necessary appropriations to carry out the provisions of this act.

HISTORY: CL 1948, 38.426.

38.427 Scope of act.

Sec. 27. Scope. All the provisions of this act shall apply to the employees of all boards, commissions and departments of any county in which this act shall be adopted. When adopted in any county, the provisions of this act shall also apply to boards, commissions, or departments of the county constituted by law a body corporate. Any such board, commission, or department of the county constituted by law a body corporate shall be considered as a separate entity in the application of the provisions of this act, and the service of such body corporate shall be separately classified and treated with regard to appointments, promotions and removals, and service records and ratings.

HISTORY: CL 1948, 38.427.

38.428 Civil service commission; determination of employee status on consolidation of governmental units with county department; subsequent change.

Sec. 28. Any other provisions of this act to the contrary notwithstanding, in the event of the consolidation of functions or departments of another governmental unit with a county department now, or which may hereafter be established, the civil service commission of the county shall make equitable rules and regulations governing the employment, status and all other terms and conditions of employment of employees of the other governmental unit in order to effect an orderly transfer of the employees to the county service and to provide, as near as may be practicable, the same conditions of employment as other county employees in like categories. The rules shall provide that the initial county status and county classification of the employees shall be based upon the status, duties and responsibilities exercised immediately preceding the date of consolidation. Any subsequent changes in status or classification shall be made in accordance with the rules of the county civil service commission.

HISTORY: Add. 1959, p. 423, Act 265, Imd. Eff. Sep. 4.

Original section 28 of Act 370 of 1941, p. 711, was a repeal section and was repealed by Act 267 of 1945.

Sec. 29. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 246, 1965, p. 419; Eff. Mar. 31, 1966.

AN ACT to establish and provide a civil service system in certain townships; to create a civil service commission, and to prescribe the duties thereof; to provide certain

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exemptions from and classifications in civil service; to prescribe penalties for the violation of the provisions of this act; and to prescribe the manner of adoption of this act by townships.

The People of the State of Michigan enact:

38.451 Township civil service system; adoption by referendum.

Sec. 1. Upon the adoption of a resolution therefor by a majority vote of the members elect of the township board of any township, and the subsequent approval by a majority of the township electors voting thereon, the provisions of this act shall apply in any township now or hereafter having a population of 60,000 or more. The township board may submit the question at any regular election or special election called for some other purpose, and shall submit the question at any such election held not less than 60 days after the filing with the township clerk of petitions for such submission signed by at least 4% of the registered electors of the township.

HISTORY: New 1965, p. 419, Act 246, Eff. Mar. 31, 1966.

38.452 Township civil service commission; creation.

Sec. 2. In any township where the township civil service system is adopted, there shall be a civil service commission.

HISTORY: New 1965, p. 420, Act 246, Eff. Mar. 31, 1966.

38.453 Township civil service commission; membership, terms, vacancies, eligibility, quorum, removal.

Sec. 3. The township board, at its next regular or special session after the adoption of this act in any township, shall appoint, by a majority vote of the members elect, 3 electors of the township as members of the civil service commission, to take office as soon as appointed and qualified, and who shall serve for the following terms as designated in the resolution of appointment: One member for a term expiring 2 years from December 31 of that year, 1 member for a term expiring 4 years from December 31 of that year, and 1 member for a term expiring 6 years from December 31 of that year. Biennially thereafter, the township board shall appoint by majority vote 1 civil service commissioner for a term of 6 years to take office on January 1 of the next year and succeed the commissioner whose term shall next expire. The commissioner whose term shall next expire shall serve as chairman of the commission. Any vacancy occurring on the commission shall be filled for the unexpired term by the township board by a majority vote of the members elect. Each commissioner shall serve until his successor is appointed and qualified. Not more than 2 of the commissioners so appointed shall be members of the same political party. Two members of the commission constitute a quorum thereof. The township board by a 2/3 vote of all the members elect may remove a commissioner during his term of office, but only after serving the commissioner with a statement in writing of the reasons for such removal, and allowing him an opportunity to be represented and publicly heard in his defense.

HISTORY: New 1965, p. 420, Act 246, Eff. Mar. 31, 1966.

38.454 Civil service commission; members, compensation and expenses.

Sec. 4. Each commissioner shall receive $10.00 compensation for each day's service for not to exceed 25 days in any one year, and such necessary traveling expenses and mileage as may be incurred in the actual performance of his duties; such compensation and expenses to be fixed by the township board. For the first 2 years after the adoption of the civil service system, compensation may be paid for not to exceed 50 days' service in any one year.

HISTORY: New 1965, p. 420, Act 246, Eff. Mar. 31, 1966.

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38.455 Civil service commission; personnel director, assistants and employees; selection, compensation; contracts for services; conditions of employment; discrimination prohibited.

Sec. 5. The commission shall choose by competitive examination a personnel director upon a basis of education, technical knowledge of personnel work, and knowledge of township government and its operation, and such other assistants and employees as may be necessary. The compensation of the personnel director and other assistants and employees shall be fixed by the commission subject to the approval of the township board. The personnel director shall act as secretary of the commission. The civil service commission of any township, if authorized by the township board and subject to its approval, may contract with a county, city or another township for the use and services of its examiners, clerks and offices and all the facilities of the civil service system. The civil service commission shall provide by regulation for the hours and conditions of service, for the length and period of vacations, and for the regulation of sick leaves in the township service, and for such other matters pertaining to the carrying out of the provisions of this act. No applicant shall be required by any rule or regulation of the commission to submit photographs for the purpose of identification, nor shall any such applicant be discriminated against by reason of race, color, creed or political affiliation.

HISTORY: New 1965, p. 420, Act 246, Eff. Mar. 31, 1966.

38.456 Civil service classification.

Sec. 6. The civil service of the township is hereby divided into the unclassified and classified services.

(a) The unclassified service shall include officers elected by popular vote and persons appointed to fill vacancies in such elective offices, 1 deputy or assistant each for the supervisor, clerk and treasurer, and heads of departments.

(b) The classified service shall comprise all positions not specifically included by this act in the unclassified service.

HISTORY: New 1965, p. 421, Act 246, Eff. Mar. 31, 1966.

38.457 Civil service commission; meetings, procedure, record.

Sec. 7. The commission shall hold regular meetings at least once a month and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings and records of the commission shall be public, except as herein otherwise provided.

HISTORY: New 1965, p. 421, Act 246, Eff. Mar. 31, 1966.

38.458 Civil service commission; powers and duties.

Sec. 8. The commission shall:

(a) Classify all the offices and positions of employment within the classified service. The classification shall be subdivided into groups and shall be based upon and graded according to the duties and responsibilities of the positions, and shall be so arranged as to permit the filling of the higher grades through promotion. All salaries shall be uniform for like service in each grade of the classified service as the same shall be classified and standardized by the commission. The classification and standardization of salaries shall not be final until approved by the township board, and salaries shall not be paid except in accordance with the classification and standardization.

(b) From time to time make, in accordance with the provisions of this act, rules adopted to carry out the purposes of this act and not inconsistent with its provisions for the examination and selection of persons to fill the offices and positions in the classified service which are required to be filled by appointment, and for the selection of persons to be employed in the service of the township.

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(c) Supervise the administration of the civil service rules, hold examinations thereunder from time to time, giving notice thereof, prepare and keep an eligible list of persons passing such examinations and certify the names of persons thereon to the appointing officers of the several departments.

(d) By itself or otherwise, investigate the enforcement of the provisions of this act, of its own rules and of the action of appointees in the classified service. In the course of such investigation, the commission or its authorized representative may administer oaths, and the commission by its subpoena may secure both the attendance and testimony of witnesses and the production of books and papers relevant to the investigation.

(e) Provide, through the purchasing department of the township, all needed supplies for the use of the commission.

(f) Such other powers and perform such other duties as may be necessary to carry out the provisions of this act.

(g) Prepare and hold open competitive examinations in order to test the relative fitness of all applicants for appointment to the classified service. At least 2 weeks' notice shall be given of all examinations.

(h) Cause to be kept in each department and division thereof, records of the service of each employee, known as "service records". These records shall contain fact statements on all matters relating to the character and quality of the work done and the attitude of the individual to his work.

(i) Keep a roster of the employees of the township, together with a record of service, military or naval experience, and such other matters as may have a bearing on promotion, transfer or discharge. All such "service records" and employees' records shall be confidential and not open for public inspection.

HISTORY: New 1965, p. 421, Act 246, Eff. Mar. 31, 1966.

38.459 Classified civil service; appointments, probationary period, temporary appointments.

Sec. 9. Whenever a position in the competitive classified civil service is to be filled, the appointing authority shall notify the commission of that fact, and the commission shall certify the names and addresses of the 3 candidates standing highest on the eligible list for the class or grade to which the position belongs, and the appointing authority shall forthwith appoint to the position 1 of the 3 persons so certified. The appointment shall be for a probationary period to be fixed by the rules, but not to exceed 6 months. At or before the expiration of the probationary period, the appointing officer, by presenting specific reasons for such action in writing, may discharge a probational appointee, or, with the approval of the civil service commission, transfer him to another department. If not discharged prior to the expiration of the period of probation and if no complaint has been made as to the service rendered, the appointment shall be deemed complete. To prevent the stoppage of business or to meet extraordinary conditions or emergencies, the head of any department or office, with the approval of the commission, may make a temporary appointment to remain for not exceeding 60 days, and only until regular appointment under the provisions of this act can be made.

HISTORY: New 1965, p. 422, Act 246, Eff. Mar. 31, 1966.

38.460 Classified civil service; qualifying and competitive examinations required; exceptions.

Sec. 10. All appointive officers and employees of the township or any department thereof at the time this act takes effect, and who have been such for more than 2 years prior thereto, whose positions are included in the classified civil service, shall hold their positions without examination until discharged, reduced, promoted or transferred, in accordance with the provisions of this act. All appointive officers and em-

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ployees of the township or any department thereof included in the classified civil service by this act, who shall have been so employed for more than 1 year and less than 2 years prior to the time this act takes effect, shall be required to take qualifying examinations, and all such appointive officers and employees who shall have been so employed for less than 1 year prior to the effective date of this act shall be required to take competitive examinations. All employees now authorized by law to be employed in any township office or department for seasonal or temporary employment, who have been in such employment of the township for 2 successive seasons immediately prior to the time this act takes effect, shall be included in the classified civil service and be eligible for appointment to such seasonal or temporary occupation without examination.

HISTORY: New 1965, p. 422, Act 246, Eff. Mar. 31, 1966.

38.461 Classified civil service; vacancies, promotion, basis.

Sec. 11. Wherever possible, vacancies shall be filled by promotion. Promotion shall be made from among employees, in the grades nearest below the grade in which the vacancy exists, qualified by training and experience to fill the vacancy and whose length of service in such lower grade entitles them to consideration. The commission, for the purpose of promotion, shall rate the qualified employees in the lower grades on the basis of their service record, experience in the work involved in the vacant position, training and qualification for such work, seniority and war service ratings. Seniority shall be controlling only when other factors are equal.

HISTORY: New 1965, p. 422, Act 246, Eff. Mar. 31, 1966.

38.462 Classified civil service; removal, suspension or reduction in rank; procedure; appeal, hearing; findings of civil service commission.

Sec. 12. Any officer or employee in the classified civil service may be removed, suspended or reduced in rank or compensation by the appointing authority after appointment or promotion is complete by an order in writing, stating specifically the reasons therefor. The order shall be filed with the civil service commission and a copy thereof shall be furnished to the person to be removed, suspended or reduced. The employee may reply in writing to the order within 5 days from the date of filing it with the civil service commission. Any person removed, suspended or reduced in rank or compensation, within 10 days after presentation to him of the order of removal, suspension or reduction, may appeal to the civil service commission. The commission, within 2 weeks from the filing of the appeal, shall commence the hearing thereon, and shall thereupon fully hear and determine the matter, and either affirm, modify or revoke such order. The appellant shall be entitled to appear personally, produce evidence, and to have counsel and a public hearing. The finding and decision of the commission shall be certified to the official from whose order the appeal is taken, and shall forthwith be enforced and followed by him, but under no condition shall the employee be removed, suspended or reduced in rank until the finding and decision of the commission is so certified.

HISTORY: New 1965, p. 422, Act 246, Eff. Mar. 31, 1966.

38.463 Civil service commission; annual report to township board.

Sec. 13. The commission shall make an annual report to the township board at its annual meeting each year, or at any other time as may be required by the township board.

HISTORY: New 1965, p. 423, Act 246, Eff. Mar. 31, 1966.

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38.464 Payrolls; approval by civil service commission.

Sec. 14. All payrolls shall be approved by the civil service commission, or by its secretary when authorized by the commission, before payment.

HISTORY: New 1965, p. 423, Act 246, Eff. Mar. 31, 1966.

38.465 Civil service employees; soliciting for political purposes prohibited.

Sec. 15. No officer or employee of the township in the classified civil service, directly or indirectly, shall make, solicit or receive, or be in any manner concerned in making, soliciting or receiving any assessment, subscription or contribution for any political party or any political purpose whatsoever. Any employee violating the provisions of this section may be removed from the office.

HISTORY: New 1965, p. 423, Act 246, Eff. Mar. 31, 1966.

38.466 Civil service commission; subpoena; noncompliance, penalty; enforcement.

Sec. 16. Any person who is served with a subpoena to appear and testify, or to produce books and papers issued by the commission in the course of the investigation conducted under the provisions of this act, and who refuses or neglects to appear or to testify as commanded in the subpoena, is guilty of a misdemeanor. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses in the circuit court for the county in which the township is situated, and shall be paid from the appropriation for the expenses of the commission. The judge of the circuit court, either in term or vacation, upon application of the commission, shall compel the attendance of witnesses, the production of books and papers and giving of testimony before the commission by attachment for contempt or otherwise in the same manner as the production of evidence may be compelled before the court. Every person who, having taken an oath or made affirmation in a proceeding, swears or affirms wilfully, corruptly or falsely is guilty of a misdemeanor.

HISTORY: New 1965, p. 423, Act 246, Eff. Mar. 31, 1966.

38.467 Violation of act; penalty.

Sec. 17. Any person who knowingly violates any of the provisions of this act, and any person who neglects or refuses to perform any duty enjoined upon him by this act, is guilty of a misdemeanor. When, by this act, any act or duty is required to be done by or under the supervision or authority of any officer, and such act or duty is not done or performed, then the officer who has wilfully neglected to perform such duty, or has wilfully permitted the omission or nonperformance of such duty or act, is guilty of a misdemeanor. Any person convicted of any of the acts or omissions which are by this act declared to be misdemeanors shall be fined not less than $50.00 nor more than $100.00, or imprisoned for not exceeding 90 days, or both.

HISTORY: New 1965, p. 423, Act 246, Eff. Mar. 31, 1966.

38.468 Classified civil service; discrimination prohibited.

Sec. 18. No person in the classified civil service or seeking admission thereto shall be appointed, reduced or removed, or in any way favored or discriminated against because of his political, racial or religious opinions or affiliations, except for membership in any organization which has advocated or does advocate disloyalty to the government of the United States or any subdivision thereof.

HISTORY: New 1965, p. 423, Act 246, Eff. Mar. 31, 1966.

38.469 Civil service commission; offices.

Sec. 19. The commission shall be provided with suitable offices, examination rooms, and accommodations for itself and staff, as may be required to suit the public convenience and carry on the work of the commission.

HISTORY: New 1965, p. 423, Act 246, Eff. Mar. 31, 1966.

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38.470 Township board; appropriations.

Sec. 20. The township board shall provide the necessary appropriations to carry out the provisions of this act.

HISTORY: New 1965, p. 424, Act 246, Eff. Mar. 31, 1966.

Act 78, 1935, p. 122; Imd. Eff. May 24.

AN ACT to establish and provide a board of civil service commissioners in cities, villages and municipalities having full paid members in the fire and/or police departments; to provide a civil service system based upon examination and investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men appointed in said fire and police departments and respective cities, villages and municipalities; to regulate the transfer, reinstatement, suspension and discharge of said officers, firemen and policemen; and to repeal all acts and parts of acts inconsistent therewith. Am. 1945, p. 482, Act 287, Imd. Eff. May 25;—Am. 1951, p. 13, Act 15, Eff. Sep. 28.

The People of the State of Michigan enact:

38.501 Fire and police department civil service commissions; creation.

Sec. 1. Within 30 days after this act shall take effect there may be created a civil service commission in each city, village or municipality of any population whatsoever having a fire and/or police department, any of the members of which are full paid by said city, village or municipality.

HISTORY: Am. 1945, p. 482, Act 287, Imd. Eff. May 25;—CL 1948, 38.501.

38.502 Civil service commission; membership, appointment, terms; election of president.

Sec. 2. The civil service commission shall consist of 3 members, 1 of whom shall be appointed by the principal elected officer of the city, village or municipality with the approval of the legislative body; and he shall serve for a period of 6 years from the date of his appointment. The second member of the commission shall be selected by the paid members of the fire and/or police department and he shall serve for a period of 4 years from the date of his appointment; a majority vote of the members of the fire and/or police department shall be necessary to select such member. The third member of the commission shall be selected by the aforesaid members of the commission and he shall serve for a period of 2 years from the date of his appointment. Thereafter all appointments shall be made for a period of 6 years each; each commissioner to serve until his successor is appointed and qualified by the appointing power hereinbefore designated.

The 3 members of the commission shall together elect 1 of their number to act as president of the commission, who shall serve for 1 year. Each year thereafter the commissioners shall elect 1 of their number, president, the member so elected to serve 1 year.

HISTORY: Am. 1945, p. 482, Act 287, Imd. Eff. May 25;—CL 1948, 38.502;—Am. 1951, p. 13, Act 15, Eff. Sep. 28;—Am. 1957, p. 51, Act 43, Eff. Sep. 27.

38.503 Civil service commission; members, qualifications.

Sec. 3. No person shall be appointed a member of said commission who is not a citizen of the United States and who has not been a resident of said city, village or municipality for a period of 1 year and an elector of said county for a period of at least 3 years immediately preceding such appointment. No commissioner shall hold any other elective office, place or position under the United States, state of Michigan, or any city, county or other political subdivision thereof; nor shall any commissioner serve on

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any political committee or take any active part in the management of any political campaign. Not more than 2 of the said commissioners, at any 1 time, shall be adherents of the same political party.

HISTORY: CL 1948, 38.503;—Am. 1949, p. 378, Act 271, Eff. Sep. 23.

38.504 Civil service commission; vacancies, removal, petition, hearing.

Sec. 4. In event that any commissioner of said civil service commission shall cease to be a member thereof by virtue of death, removal or other cause, a new commissioner shall be appointed to fill out the unexpired term of said commissioner within 10 days after said commissioner shall have ceased to be a member of said commission. Such appointment shall be made by the officer or body who in the first instance appointed the commissioner who is no longer a member of the commission. The mayor or principal executive officer shall at any time remove any commissioner for incompetency, dereliction of duty, malfeasance in office or any other good cause, which shall be stated in writing and made a part of the records of the commission, and a copy of the removal shall be served on said commissioner forthwith: Provided, however, That once the mayor or principal executive officer has to remove any commissioner, such removal shall be temporary only and shall be in effect for a period of 10 days. If at the end of said period of 10 days the said commissioner shall fail to make answer thereto, he shall be deemed removed, otherwise the mayor shall file in the office of the clerk of the circuit court of said county a petition setting forth in full the reason for said removal and praying for the confirmation by said circuit court of the action of the mayor in so removing the said commissioner. A copy of said petition, in writing, shall be served upon the commissioner so removed simultaneously with its filing in the office of the clerk of the circuit court and shall have precedence on the docket of the said court and shall be heard by said court as soon as the removed commissioner shall demand. All rights hereby vested in said circuit court may be exercised by the judge thereof during a vacation. In event that no term of court is being held at the time of filing of said petition, and the judge thereof cannot be reached in the county wherein the petition was filed, said petition shall be heard at the next succeeding term of said circuit court, whether regular or special, and the commissioner so suspended shall remain suspended until a hearing is had upon the petition of the mayor. The court, or the judge thereof, in vacation, shall hear and decide upon said petition. The contestant, against whom the decision of the court or judge thereof, in vacation, shall be rendered, shall have the right of appearing in person and by counsel and presenting his defense and to petition the supreme court for a review of the decision of the circuit court, or the judge thereof in vacation, as in chancery cases. In event that the mayor shall fail to file this petition in the office of the clerk of the circuit court, as hereinbefore provided, within 10 days after the removal of said commissioner, such commissioner shall immediately resume his position as a member of the civil service commission.

HISTORY: CL 1948, 38.504;—Am. 1949, p. 378, Act 271, Eff. Sep. 23.

38.505 Civil service commission; clerk.

Sec. 5. The city clerk or city recorder of any city, village or municipality under the terms of this act shall "ex officio" be clerk of the civil service commission and shall supply to the commission without extra compensation all necessary clerical and stenographic services for the work of the civil service commission.

HISTORY: CL 1948, 38.505.

38.506 Fire and police civil service; eligibility for permanent appointment.

Sec. 6. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this act, all persons holding a position in the fire and/or police department, including the chief thereof, when this act takes effect, who shall have served in such position for a period of at least 6 months last past

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continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation: Provided, however, That any employee with less than 6 months' service shall be classed as probationer under this act.

HISTORY: Am. 1943, p. 235, Act 173, Eff. Jul. 30;—Am. 1945, p. 482, Act 287, Imd. Eff. May 25;—CL 1948, 38.506;—Am. 1951, p. 14, Act 15, Eff. Sep. 28.

38.507 Fire and police civil service; new appointments.

Sec. 7. On and after the date this act takes effect, appointments to and promotions in all paid fire and/or police departments of cities, villages or municipalities of any population whatsoever shall be made only according to qualifications and fitness to be ascertained by examinations, which shall be competitive, and no person shall be appointed, reinstated, promoted or discharged as a paid member of said departments regardless of rank or position, in any fire or police department of any city, village or municipality in the state of Michigan, in any manner or by any means other than those prescribed in this act.

HISTORY: Am. 1945, p. 483, Act 287, Imd. Eff. May 25;—CL 1948, 38.507;—Am. 1951, p. 14, Act 15, Eff. Sep. 28.

38.508 Civil service commission; assistance by municipal executive officers; printing, supplies.

Sec. 8. It shall be the duty of the mayor, or principal executive officer, and heads of departments of every city, village or municipality to aid the civil service commission in all proper ways in carrying out the provisions of this act, and to allow the reasonable use of public buildings and to cause suitable and convenient rooms and accommodations to be assigned and provided, and to be furnished, heated and lighted for carrying on the work and examinations of the civil service commission and in all proper ways to facilitate the same. The civil service commission may order from the proper authorities the necessary stationery, postage stamps, official seal and other articles to be supplied, and the necessary printing to be done, for its official use.

HISTORY: CL 1948, 38.508.

38.509 Civil service commission; powers and duties.

Sec. 9. The civil service commission in each city, village or municipality, within the terms of this act, shall

First, Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this act. All rules so prepared may, from time to time, be added to, amended or rescinded.

Second, Keep minutes of its own proceedings and records of its examinations and other official actions. All recommendations of applicants for office, received by the said commission or by any officer having authority to make appointments to office, shall be kept and preserved for a period of 10 years, and all such records, recommendations of former employers accepted, and all written causes of removal, filed with it, shall, subject to reasonable regulation, be open to public inspection. It shall keep a roster of the members of the fire and police department, together with a record of service, military or naval experience, file statements on all matters relating to the character and quality of the work done and the attitude of the individual to his work and such other matters as may have a bearing on promotion, transfer or discharge.

Third, Make investigations, either sitting in a body or through a single commissioner, concerning all matters touching the enforcement and effect of the provisions of

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this act, and the rules and regulations prescribed thereunder, concerning the action of any examiner or subordinate of the commission, or any person in the public service in respect to the execution of this act; and, in the course of such investigations, each commissioner shall have the power to administer oaths and affirmations, and to take testimony.

Fourth, Have power to subpoena and require the attendance of witnesses, and the production thereby of books and papers pertinent to the investigations and inquiries hereby authorized, and to examine them and such public records as it shall require, in relation to any matter which it has the authority to investigate. The fees of such witnesses for attendance and travel shall be the same as for witnesses before the circuit courts, and shall be paid from the appropriations for the incidental expenses of the commission. All officers in the public service, and their deputies, clerks, subordinates and employees shall attend and testify when required to do so by said commission. Any disobedience to, or neglect of, any subpoena issued by the said commissioners, or any 1 of them, to any person, shall be held a contempt of court, and shall be punished by the circuit court, within the county in which the said subpoena has been issued. Any judge of any of said courts shall, upon the application of any 1 of said commissioners, in such cases cause the process of said court to issue to compel such person or persons, disobeying or neglecting any such subpoena, to appear and to give testimony before the said commissioners; any 1 of them shall have power to punish any such contempt.

Fifth, Make an annual report to the mayor or principal executive officer showing its own action, and rules and regulations, and all exceptions thereto in force, and the practical effects thereof, and any suggestions it may approve for the more effectual accomplishments of the purpose of this act. Such reports shall be available for public inspection 5 days after the same shall have been delivered to the mayor or principal executive officer of any city, village or municipality.

HISTORY: Am. 1941, p. 196, Act 151, Eff. Jan. 10, 1942;—Am. 1943, p. 236, Act 173, Eff. July 30;—Am. 1945, p. 483, Act 287, Imd. Eff. May 25;—CL 1948, 38.509.

38.510 Fire and police department civil service system; application for competitive examination, contents; eligibility, medical examination, review; reinstatement.

Sec. 10. (a) The civil service commission, in each city, village or municipality shall require persons applying for admission to any examination provided for under this act or under the rules and regulations of the said commission, to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

First, His full name, residence and post office address.

Second, His citizenship, age, and the place and date of his birth.

Third, His health, and his physical capacity for public service.

Fourth, His business and employments and residence for at least 3 years previous; he must have been a resident of said city, village or municipality for at least 1 year immediately preceding his application. The commission shall establish educational requirements but in no case shall the requirements call for less than an eighth grade education. After his acceptance by the civil service commission, the applicant shall be governed as to residence by the provisions of any city or village charter. The commission may waive the 1-year residence requirement in cases of inability to secure competent applicants for examinations provided under this act, provided that all such applicants shall have resided in the state for a period of one year prior to his application.

Fifth, Such other information as may reasonably be required, touching the applicant's qualifications and fitness for the public service.

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(b) Blank forms for such applications shall be furnished by the said commission, without charge to all persons requesting same. Said commission may require in connection with such application such certificate of citizens, physicians or others, having knowledge of the applicant as the good of the service may require. The said commission may refuse to examine an applicant, or after examination, to certify as eligible, one who is found to lack any of the established preliminary requirements for the examination of position or employment for which he applied; or who is physically so disabled as to be rendered unfit for the performance of the duties of the position to which he seeks appointment; or who is addicted to the habitual use of intoxicating liquors or drugs; or who may have been guilty of any crime, or infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in his application, in his examination, or in securing his eligibility; or who refuses to comply with the rules and regulations of the commission. If any applicant feels himself aggrieved by the action of the commission in refusing to examine him, or after an examination, to certify him as an eligible, as provided in this section, the commission shall, at the request of such applicant, appoint a time and a place for a public hearing; at which time such applicant may appear, by himself or counsel, or both, and the commission shall then review its refusal to make such examination or certifications, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by him. After such review, the commission shall file the testimony taken, in its records and shall again make a decision, which decision shall be final.

(c) All applicants for any position in the fire or police department shall undergo a physical examination which shall be conducted under the supervision of a commission composed of 2 doctors of medicine appointed for the commission by the mayor or principal executive officer of the city, village or municipality. Said commission shall certify that an applicant is free from any bodily or mental defects, deformity or diseases that might incapacitate him from the performance of the duties of the position desired before said applicant shall be permitted to take further examinations. No applications will be received if the person applying is less than 21 years of age or more than 31 years of age at the date of his application: Provided, however, That in event any applicant has formerly served upon the fire or police department of the city, village or municipality to which he makes application, for a period of more than 10 years, and has resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against such applicant, within a period of 2 years next preceding the date of his application, and is a resident of the city, village or municipality or the area authorized by city charter, then such person shall be eligible for reinstatement in the discretion of a civil service commission, even though such applicant shall be over the age of 31 years. Such applicant, providing his former term of service so justifies, may be reappointed to the fire or police department without examination other than a physical examination; if such person shall be reinstated to the fire or police department, he shall be the lowest in rank in the department next above the probationers of the department.

HISTORY: Am. 1943, p. 236, Act 173, Eff. Jul. 30;—Am. 1945, p. 484, Act 287, Imd. Eff. May 25;—CL 1948, 38.510;—Am. 1949, p. 379, Act 271, Eff. Sep. 23;—Am. 1956, p. 305, Act 162, Eff. Aug. 11;—Am. 1957, p. 108, Act 94, Eff. Sep. 27;—Am. 1966, p. 117, Act 96, Eff. Mar. 10, 1967.

38.510a Fire and police department civil service system; applications; age limits; municipalities of 10,000 or less in population.

Sec. 10a. After advertising for a law enforcement officer at least weekly for a period of not less than 30 days in a newspaper of general circulation in the employing municipality, with no resulting acceptable applications, any municipality with a population

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of 10,000 or less may take applications for and employ a person for such position up to the age of 36 years.

HISTORY: Add. 1968, p. 16, Act 9, Imd. Eff. Mar. 20.

38.511 Fire and police department civil service system; examinations; probationary period; appointments, procedure; non-competitive examinations; special examinations.

Sec. 11. (a) The civil service commission in each city, village or municipality, shall make rules and regulations providing for examinations of positions in the paid fire or police departments in each city, village or municipality under this act, for appointments, and for such other matters as are necessary to carry out the purposes of this act. The minimum passing grade for any examination shall be at least 70%. Due notice of the contents of such rules and regulations and of any modifications thereof shall be given, by mail, in due season, to appointing officers affected thereby, and said rules and regulations and modifications thereof shall also be printed for public distribution. All original appointments to any positions in the fire or police departments, within the terms of this act, shall be for a probationary period of 6 months: Provided, however, That at any time during the probationary period the appointee may be dismissed for such cause, in the manner provided in this act. If at the close of this probationary term, the conduct or capacity of the probationer has not been satisfactory to the appointing officer, the probationer shall be notified, in writing, that he will not receive permanent appointment, whereupon his employment shall cease; otherwise his retention in the service shall be equivalent to his final appointment: Provided, however, That the probationer shall be entitled to a hearing before the commission as provided in section 14.

(b) Every position, unless filled by reinstatement, shall be filled only in the following manner: The appointing officer shall notify the civil service commission of any vacancy in the service which he desires to fill, and shall request the certification of eligibles. The commission shall forthwith certify, from the eligible list, the name of the person who received the highest average at preceding examinations held under the provisions of this act within a period of 2 years next preceding the date of such appointment. The appointing officer shall, thereupon, with sole reference to the relative merit and fitness of the candidate, make the appointment so certified. As each subsequent vacancy occurs, precisely the same procedure shall be followed. When an appointment is made under the provisions of this section, it shall be, in the first instance for the probationary period of 6 months, as provided in this act. The term "appointing officer" as used in this act shall be construed to mean the mayor or principal administrative or executive officer in any city, village or municipality.

(c) Whenever there are urgent reasons for filling a vacancy in any position in the fire or police department and there is no list of persons eligible for appointment the appointing officer may nominate a person to the civil service commission for a non-competitive examination; and if such nominee shall be certified by the said commission as qualified, after such non-competitive examination, he may be appointed temporarily, to fill such vacancy until a selection and appointment can be made after a competitive examination, and in the manner prescribed in this act; but such temporary appointment shall not continue for a longer period than 3 months, nor shall successive temporary appointments be made to the same position, under this provision. In the event of an emergency due to a war in which our country is involved, the civil service commission may make temporary appointments to fill vacancies, when appointments cannot be made under the provisions of this act, such appointments to be temporary, and only during hostilities, and 6 months thereafter.

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(d) In event any position as an electrician, mechanic, radio engineer, fire inspector or fire alarm operator is to be filled upon a paid fire or police department, then the examination to be given to applicants for either the positions of electricians, mechanics, radio engineers, fire inspectors or fire alarm operators shall be so drawn as to test only the qualifications of such applicants in regard to their ability as an electrician, mechanic, radio engineer, fire inspector or fire alarm operator, such examinations to be special examinations.

HISTORY: Am. 1941, p. 197, Act 151, Eff. Jan. 10, 1942;—Am. 1943, p. 238, Act 173, Eff. Jul. 30;—Am. 1945, p. 485, Act 287, Imd. Eff. May 25;—CL 1948, 38.511;—Am. 1949, p. 380, Act 271, Eff. Sep. 23;—Am. 1956, p. 306, Act 162, Eff. Aug. 11.

38.512 Fire and police department civil service system; examinations, contents, notice; eligible list, posting; discrimination prohibited; vacancies filled by promotion.

Sec. 12. (a) All examinations for positions shall be practical in their character and shall relate to such matters, and include such inquiries, as will fairly and fully test the comparative merit and fitness of the persons examined to discharge the duties of the employment sought by them. All examinations shall be open to all applicants who have fulfilled the preliminary requirements, stated in other sections of this act. Notice of the time and place and purpose of every examination shall be given by the commission by publication for 2 weeks preceding such examination in the official paper of the city, village or municipality and such notice shall be posted by the commission in a conspicuous place in the office and on the bulletin boards of the city, village or municipality, for 2 weeks before such examination. Such further notice of examinations may be given as the commission shall prescribe; but in an examination for a promotion, no newspaper advertisement shall be required. The commission shall adopt reasonable regulations for permitting the presence of representatives of the press at the examination. The commission shall post, in a public place at its office, the eligible list, containing the names and grades of those who have passed examinations for positions or promotions in fire or police departments, under this act, and shall indicate thereon such appointments as may be made from said list. No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant; nor shall inquiries be made concerning such opinions or affiliations; and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened or promised by any person in the fire or police department against, or in favor of an eligible applicant or employee in fire or police departments under this act because of his political or religious opinions or affiliations.

Vacancies; promotions; probationer, hearing.

(b) Vacancies in positions in the fire and police department above the rank of fireman or patrolman shall be competitive and filled by promotions from among persons holding positions in the next lower rank in the departments, who have completed 2 years in such rank and at least 5 years in the department. If there are more vacancies than there are persons with 5 years in the department, the commission may lower the requirements to 3 years in the department. If no person or persons have completed 2 years in the next lower rank, the commission may hold examinations among persons in such rank as to all intent and purposes as though 2 years of service had been completed by such persons. Promotions shall be based upon merit to be ascertained by tests to be provided by the civil service commission and upon the superior qualifications of the persons promoted as shown by his previous service and experience. In the event of only 1 person in the next lower rank, person or persons in the second lower rank may compete for the vacancy, if such person or presons have completed at least 5 years in the department. Whenever a position becomes vacant for which examinations are held, the appointing power shall make requisition upon the commission for the

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name of the person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list at preceding examinations held under the provisions of this act within a period of 2 years next preceding the date of such appointment for the class to which the vacant position has been allocated, who is willing to accept employment. If more than 1 vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such position. To enable the appointing power to exercise a choice in the filling of positions of promotion in the fire or police service, no promotion shall be deemed complete until after the expiration of a period of 6 months' probationary service, and if at the end of the probationary period, the appointing authority finds that the conduct or capacity of the probationer has not been satisfactory, the appointing authority shall notify the probationer and the commission in writing, otherwise his retention in the higher position shall be equivalent to receiving full status and regular employment in the higher position. The probationer, upon receiving notice that his conduct or capacity has not been satisfactory in the higher position, may demand a written statement of particulars of reasons for such determination and may demand a hearing before the commission. The demands shall be in writing; in such case the probationer shall be entitled to a hearing before the commission and to a statement of particulars to be served not less than 7 days prior thereto. The commission may affirm or reverse the decision of the appointing authority or may order an additional probation period of not to exceed 6 months. The decision of the commission shall be final. If the probationer shall not receive such full status and regular employment in the higher position he shall resume the duties of his former position, and the appointing power shall be entitled to another certification of eligibles in accordance with the provisions of this act.

HISTORY: Am. 1941, p. 198, Act 151, Eff. Jan. 10, 1942;—Am. 1943, p. 239, Act 173, Eff. Jul. 30;—Am. 1945, p. 486, Act 287, Imd. Eff. May 25;—CL 1948, 38.512;—Am. 1949, p. 381, Act 271, Eff. Sep. 23;—Am. 1951, p. 14, Act 15, Eff. Sep. 28;—Am. 1965, p. 573, Act 298, Eff. Mar. 31, 1966;—Am. 1969, p. 379, Act 198, Imd. Eff. Aug. 6.

38.513 Reduction in pay, suspension or discharge; discrimination prohibited; hearing by civil service commission.

Sec. 13. No person shall be reduced in pay or position, laid off, suspended, discharged or otherwise discriminated against by any appointing officer for religious or political reasons or affiliations. In all cases of reductions, layoff, or suspension of an employee or subordinate, whether appointed for a definite term or otherwise the appointing authority shall furnish such employees or subordinate with a copy of reasons for layoff, reduction, or suspension and his reasons for the same, and give such employee or subordinate a reasonable time in which to make and file an explanation. Such order together with the explanation, if any, of the subordinate shall be filed with the commission: Provided, however, That the employee or subordinate shall be entitled to a hearing before the commission as provided in section 14. Nothing in this act contained shall limit the power of an appointing officer to suspend without pay, for purposes of discipline, an employee or subordinate for a reasonable period, not exceeding 30 days: Provided, however, That successive suspensions shall not be allowed, and after such suspension, employees shall be entitled to a hearing as provided for in this section and in section 14: And provided further, That the provisions of this act shall not apply to temporary and exceptional appointments made under the authority of this act.

HISTORY: CL 1948, 38.513;—Am. 1949, p. 382, Act 271, Eff. Sep. 23.

38.514 Removal, suspension or discharge; charges; hearing, appeal; reductions in force.

Sec. 14. The tenure of every one holding an office, place, position or employment under the provisions of this act shall be only during good behavior and efficient serv-

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ice; and any such person may be removed or discharged, suspended without pay, deprived of vacation privileges or other special privileges, by the civil service commission, for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment to the public, neglect of duty, violation of the provisions of this act or the rules of the commission, or any other failure of good behavior, or any other acts of misfeasance, malfeasance or nonfeasance in office: Provided, however, No member of any fire or police department within the terms of this act shall be removed, discharged, reduced in rank or pay, suspended or otherwise punished except for cause, and in no event until he shall have been furnished with a written statement of the charges and the reasons for such actions, and all charges shall be void unless filed within 90 days of the date of the violation, except in the case of a probationer, whose violations may accumulate for the probationary period. In every case of charges having been made a copy of the statement of reasons therefor and answer thereto, if the person sought to be removed desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. Such answer shall be filed by the member within 5 days after service of the charges upon him. If the person sought to be removed or reduced shall demand it, the civil service commission shall grant him a public hearing, which hearing shall be held within a period of 10 days from the filing of the charges in writing and a written answer thereto. Pending the period between the making of the charges as a basis for removal and the decision thereon by the commission the member shall remain in office. At such hearing the burden shall be upon the removing officer to justify his action. In the event that the removing officer fails to make charges to the satisfaction of a member or members of a fire or police department in a city, village or municipality, such member or members of a fire or police department may present the information to the civil service commission. In event that the civil service commission fails to justify the action of the removing officer then the person sought to be removed shall be reinstated with full pay for the entire period during which he may have been prevented from performing his usual employment, and no charges shall be officially recorded against his record. A written record of all testimony taken at such hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be available for public inspection, in event that no appeal shall be taken from the action of the commission. In event that the civil service commission shall sustain the action of the removing officer the person removed shall have an immediate right of appeal to the circuit court of the county wherein the city, village or municipality is situated. Said appeal shall be taken within 90 days from the entry from the civil service commission of its final order; upon such an appeal being taken and docketed with the clerk of the circuit court of said county, the circuit court shall proceed to hear the appeal upon the original record taken therein and no additional proof shall be permitted to be introduced. The circuit court's decision shall be final, saving the employee, however, the right to petition the supreme court for a review of the court's decision. The removing officer and the person sought to be removed shall at all times, both before the civil service commission and upon appeal, be given the right to employ counsel to represent either of them before said civil service commission and upon appeal; should the person removed elect to appeal to the circuit court as hereinbefore provided.

If for any reasons of economy it shall be deemed necessary by any city, village or municipality to reduce the number of paid members of any fire or police department, then said municipality shall follow the following procedure:

Such removals shall be accomplished by suspending in numerical order commencing with the last man appointed to the fire or police department, all recent appointees to said fire or police department until such reductions shall have been accomplished: Provided further, however, That in event the said fire or police department shall again

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be increased in numbers to the strength existing prior to such reductions of members the said firemen or policemen suspended last under the terms of this act shall be first reinstated before any new appointments to said fire or police department shall be made.

HISTORY: Am. 1943, p. 240, Act 173, Eff. Jul. 30;—Am. 1945, p. 487, Act 287, Imd. Eff. May 25;—CL 1948, 38.514;—Am. 1949, p. 382, Act 271, Eff. Sep. 23.

38.515 Violation of act; misdemeanor.

Sec. 15. Any commissioner or examiner, or, any other person, who shall wilfully, by himself or in cooperation with 1 or more persons, defeat, deceive or obstruct any person in respect to his right of examination or registration according to this act, or to any rules or regulations prescribed pursuant thereto, or who shall wilfully or corruptly, falsely, mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified, pursuant to the provisions of this act, or aid in doing so, or who shall wilfully or corruptly furnish to any person any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment of any person so examined, registered, or certified, or to be examined, registered or certified; or who shall impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination or registration, or application or request to be examined or registered, shall, for each offense be deemed guilty of a misdemeanor.

HISTORY: CL 1948, 38.515.

38.516 Violation of act; penalty.

Sec. 16. Whoever makes an appointment to office, or selects a person for employment contrary to the provisions of this act, or wilfully refuses or neglects otherwise to comply with, or conform to, any of the provisions of this act, or violates any of such provisions, shall be deemed guilty of a misdemeanor. Misdemeanors under the provisions of this act shall be punishable by a fine of not less than $100.00, nor more than $1,000.00 or by imprisonment in state prison for a term not exceeding 2 years, or by both fine and imprisonment, in the discretion of the court.

HISTORY: Am. 1943, p. 241, Act 173, Eff. July 30;—Am. 1945, p. 488, Act 287, Imd. Eff. May 25;—CL 1948, 38.516.

38.517 Fire and police department civil service system; definitions.

Sec. 17. As used in this act, the following mentioned terms shall have the following described meanings:

The term "commission" means the civil service commission herein created, and the term "commissioner" means any 1 of the 3 commissioners of that commission. The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

The term "appointment" includes all means of selection, promotion, appointing or employing any person to hold any office, place, position of employment subject to civil service.

The term "city" includes all cities, villages and municipalities having a full paid fire and/or police department or a fire or police department having paid members. The term "full paid fire and/or police department or fire or police department having paid members" means a fire or police department the officers, firemen and policemen employed in which are paid regularly by the city and devote their whole time to fire fighting and law enforcement.

The term "member" shall be construed as meaning both the male and female sex.

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The term "municipality" shall be construed to include townships, charter townships, cities and incorporated villages.

HISTORY: Am. 1945, p. 488, Act 287, Imd. Eff. May 25;—CL 1948, 38.517;—Am. 1951, p. 15, Act 15, Eff. Sep. 28.

38.517a Referendum on adoption; ballot, form.

Sec. 17a. The foregoing provisions of this act shall not take effect in any city, village or municipality until approved by a majority of the electors voting thereon at an election at which the question of adoption of this act for that city, village or municipality is properly submitted.

The governing body of any city, village or municipality may by resolution submit the same to the electors of such city, village or municipality at any regular or special election: Provided, That the governing body of any city, village or municipality shall by resolution submit the same to the electors of such city, village or municipality at any regular or special election on the filing of a petition requesting such submission with said governing body signed in accordance with the provisions of the city, village or municipal charter for referendums on ordinances: Provided, That if there be no provisions in such city, village or municipal charters governing the submission of ordinances by referendum petition, then such petition signed by 10 per cent of the registered voters in such city, village or municipality.

The form of ballot shall be:

"Shall Act No. 78 of the Public Acts of 1935, entitled as amended 'An act to establish and provide a board of civil service commissioners in cities, villages and municipalities having full paid members in the fire and police departments; to provide a civil service system based upon examination and investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men appointed in said fire and police departments and respective cities, villages and municipalities; to regulate the transfer, reinstatement, suspension and discharge of said officers, firemen and policemen; and to repeal all acts and parts of acts inconsistent therewith,' as amended, be adopted?

Yes ( )

No ( )."

Such ballots shall be cast and canvassed and the results of the election certified in the same manner as ballots on any question submitted to the electors of such city, village or municipality. If the majority of the qualified electors of such city, village or municipality vote in favor of the adoption of this act, then the provisions thereof shall be in full force and effect in such city, village or municipality and not otherwise.

HISTORY: CL 1948, 38.517a;—Am. 1949, p. 384, Act 271, Eff. Sep. 23.

38.518 Referendum on rescission and repeal; ballot, form.

Sec. 18. The foregoing provisions of this act shall continue in full force and effect in any city, village or municipality at which it has been properly adopted until rescinded and repealed by a majority of the electors voting thereon at an election at which the question of rescission and repeal of this act for that city, village or municipality is properly submitted.

The governing body of any city, village or municipality may by resolution submit the question of rescission and repeal of this act as it relates to the fire department and/or police department to the the electors of said city, village or municipality at any regular or special election.

The form of ballot shall be:

"Shall Act No. 78 of the Public Acts of 1935, entitled as amended 'An act to establish and provide a board of civil service commissioners in cities, villages and municipalities having full paid members in the fire and/or police departments; to provide a

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civil service system based upon examination and investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men appointed in said fire and police departments and respective cities, villages and municipalities; to regulate the transfer, reinstatement, suspension and discharge of said officers, firemen and policemen; and to repeal all acts and parts of acts inconsistent therewith,' as amended, be rescinded and repealed as it relates to the fire department and/or police department?

Yes ( )

No ( )."

Such ballots shall be cast and canvassed and the results of the election certified in the same manner as ballots on any question submitted to the electors of such city, village or municipality. If the majority of the qualified electors of such city, village or municipality vote in favor of the rescission of this act, then the provisions thereof shall be rescinded and repealed in such city, village or municipality, and not otherwise.

HISTORY: Add. 1951, p. 117, Act 88, Eff. Sep. 28.

Original section 18 of Act 78 of 1935, p. 122, was a severing clause section and was repealed by Act 267 of 1945.

Sec. 19. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Act 201, 1970, p. 575; Imd. Eff. Aug. 25.

AN ACT to authorize police cadets programs in cities, villages and townships operating under the provisions of Act No. 78 of the Public Acts of 1935, as amended.

The People of the State of Michigan enact:

38.521 Municipal police cadet training program; operation, requirements.

Sec. 1. A city, village or township that has adopted the provisions of Act No. 78 of the Public Acts of 1935, as amended, being sections 38.501 to 38.518 of the Compiled Laws of 1948, may operate a police cadet training program. An applicant for enrollment in the program shall meet all the requirements of that act for a position in the police department, except that the applicant shall be not less than age 18 and not more than age 21. A person enrolled in the program shall not fulfill any functions, other than administrative, of a policeman until he reaches the age of 21 and receives a favorable recommendation from the appointing officer to the civil service commission or to the appointing authority where there is no civil service commission. A police cadet recommended for advancement to policeman shall receive preferential consideration for such position over other applicants. A police cadet shall serve as a cadet only until age 22, except he may serve beyond age 22 on recommendation of the appointing officer and approval of the civil service commission where there is such a commission.

HISTORY: New 1970, p. 575, Act 201, Imd. Eff. Aug. 25.

Act 345, 1937, p. 826; Eff. Oct. 29.

AN ACT to provide for the establishment, maintenance and administration of a system of pensions and retirements for the benefit of the personnel of fire and/or police departments, employed by cities, villages or municipalities having full paid members in such departments, and for the widows and children of such members, and to provide for the creation of a board of trustees to manage and operate same; to authorize appropriations and deductions from salaries; and to repeal all acts and parts of acts inconsistent therewith. Am. 1951, p. 16, Act 16, Imd. Eff. Mar. 30.

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The People of the State of Michigan enact:

38.551 Fire and police department pension and retirement system; retirement board, members, election, appointment, terms.

Sec. 1. The retirement board, also referred to in this act as the pension board, created hereunder shall be known as "The retirement board" and shall be a corporate body, consisting of 5 members, which shall consist of:

(1) The treasurer of the city, village or municipality, so affected hereby.

(2) Two additional members, 1 of whom shall be an active member of and elected by a majority vote of the members of the fire department, and 1 of whom shall be an active member of and elected by a majority vote of the members of the police department under such rules and regulations as the retirement board shall adopt to govern such election. Each such member shall serve for a term of 4 years, except that in the first instance, the member elected by the police department shall serve for a term of 2 years. If in the first instance only the fire department or only the police department is included in the retirement plan, the 2 additional members shall be elected from that department and the candidate receiving the highest number of votes shall be elected for the 4-year term and the candidate receiving the second highest number of votes shall be elected for the 2-year term.

(3) Two additional members shall be appointed by the legislative body or another person or body authorized by the city or village charter to appoint administrative officials in any city or village affected by the provisions of this act.

HISTORY: Am. 1945, p. 367, Act 256, Eff. Sep. 6;—Am. 1947, p. 336, Act 229, Imd. Eff. Jun. 17;—CL 1948, 38.551;—Am. 1951, p. 16, Act 16, Imd. Eff. Mar. 30;—Am. 1959, p. 111, Act 105, Eff. Mar. 19, 1960.

CITED IN OTHER SECTIONS: Sections 38.551 to 38.562 are cited in §§ 38.559 and 38.664.

38.552 Retirement board; powers and duties.

Sec. 2. The retirement board created hereunder shall have power, and it shall be its duty to:

(1) Make all rules and regulations necessary to the proper conduct of the business of the retirement system under the provisions of the law.

(2) Retain such legal, medical, actuarial, clerical, or other service as may be necessary for the conduct of the affairs of the retirement system; and make compensations for such services.

(3) Cause such amounts as may be set forth in the law to be deducted from the salaries of active members of the retirement system and paid into the treasury of the retirement system.

(4) Certify to the governing body of the city, village or municipality the amount to be contributed by the city, village or municipality as provided in this act.

(5) Cause the examination of every disability pensioner or beneficiary under age 55 years to be made at least once a year for the first 5 years following his retirement, and at least once every 3 years thereafter, until his attainment of age 55 years.

(6) Keep all records of its meetings and proceedings, and shall hold meetings at least once each month, which shall be open to the public.

(7) The board shall elect 1 of its members to be president and 1 of its members to be secretary thereof, annually.

(8) Disburse the pensions and other benefits payable under this act.

(9) No member of the board shall receive any additional compensation for his services as a board member.

HISTORY: Am. 1945, p. 367, Act 256, Eff. Sep. 6;—Am. 1947, p. 336, Act 229, Imd. Eff. Jun. 17;—CL 1948, 38.552;—Am. 1951, p. 16, Act 16, Imd. Eff. Mar. 30.

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38.553 Retirement system funds; treasurer as custodian, bond; disbursements, authorization by retirement board.

Sec. 3. The treasurer of the city, village, or municipality shall be the custodian of all funds of the retirement system and shall be required to give a good and sufficient bond to said board for the faithful performance of his duties and the safe-keeping of all moneys collected hereunder, the bond to be paid by said city, village or municipality, and to issue warrants for the disbursements of such fund on the receipt of a voucher signed by at least 2 members of the board other than the said treasurer. No voucher or warrant shall be executed unless it shall have been previously authorized by resolution adopted by the board.

HISTORY: Am. 1945, p. 367, Act 256, Eff. Sept. 6;—Am. 1947, p. 337, Act 229, Imd. Eff. June 17;—CL 1948, 38.553.

38.554 Credit for prior service.

Sec. 4. All service performed by members prior to the enactment of this act by any city, village or township, including service performed for predecessor townships, shall be computed to the credit of each member so affected.

HISTORY: Am. 1939, p. 398, Act 210, Eff. Sep. 29;—Am. 1947, p. 337, Act 229, Imd. Eff. Jun. 17;—CL 1948, 38.554;—Am. 1957, p. 57, Act 52, Eff. Sep. 27;—Am. 1958, p. 174, Act 159, Eff. Sep. 13.

38.555 Retirement board; quasi-judicial body; review of actions by writ of certiorari.

Sec. 5. The board shall be a quasi-judicial body, and its actions shall be reviewable by writ of certiorari only.

HISTORY: CL 1948, 38.555.

38.556 Firemen and policemen retirement system; benefits.

Sec. 6. Pensions and benefits payable under this act shall be as follows:

Age and service qualifications.

(1) Age and service retirement:

Retirement with 25 years service; age; leaving service, effect.

(a) Any member aged 55 years or older who has 25 or more years of service as a policeman or fireman in the employ of the city, village or municipality affected by the provisions of this act, may retire from service upon his written application to the board setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired and the board shall grant him the benefits to which he may be entitled under the provisions of this act, unless he shall continue his employment, and in which event his pension shall be deferred with service years of credit until he actually retires. Regardless of any other provisions of this act, upon the approval of the legislative body or of the electors of any city, village or municipality under the provisions of this act, a member under age 50 who has, or without the necessity for such approval, a member age 50 or more who has 25 or more years of service, may leave the service and receive the full retirement benefits payable throughout his life as provided in subsection (d). Any member now retired with 25 or more years of service, but not as yet eligible for retirement benefits, shall be eligible for retirement benefits on the effective date of this amendatory act.

Retirement at age 60 on application of head of department.

(b) Any member aged 60 years or older shall be retired by the retirement board upon the written application of the legislative body, or board or official provided in the charter of the city, village or municipality as head of the department in which the said member is employed. Upon his retirement, the retirement board shall grant him the benefits to which he may be entitled under the provisions of this act, unless he shall continue his employment, and in which event his pension shall be deferred with service years of credit until he actually retires.

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Compulsory retirement at age 65.

(c) Any member who has attained age 65 years shall be retired by the board on the first day of the month following his attainment of age 65 years.

Regular retirement pension; amount, increase; return of contribution.

(d) Upon retirement from service as provided in subsection (1) of this section, a member shall receive a regular retirement pension payable throughout his life of 2% of his average final compensation multiplied by the first 25 years of service credited to him, plus 1% of his average final compensation multiplied by the number of years, and fraction of a year, of service rendered by him which are in excess of 25 years. A city, village or municipality under the provisions of this act, may, upon the approval of the legislative body or the electors thereof increase the percentage of the payment from 2% up to a maximum of 2.5%. Once the increase is approved, it shall not be reduced for members under the system at the time of the increase. The legislative body may also increase the percentage of employee contributions. In the event a retired member dies before the total of his regular pension payments received by him equals the total of his contributions made to the retirement system, the difference between his said total contributions and the said total of his regular retirement pension payments received by him, shall be paid in a single sum to such person or persons as he shall have nominated by written designation duly executed and filed with the board. If there be no such person or persons surviving the said retired member, such difference, if any, shall be paid to the retired member's legal representative.

Average final compensation, defined.

(e) "Average final compensation" shall mean the average of the highest annual compensation received by a member during a period of 5 consecutive years of service contained within his 10 years of service immediately preceding his retirement, or leaving service. If he has less than 5 years of service, then average final compensation shall mean the annual average compensation received by him during his total years of service.

Armed service credit; computation.

(f) When computing a member's service credit he shall be given credit for time spent in the military, naval, marine or other armed service of the United States government during time of war, or other national emergency recognized by the board: Provided, (1) That he was employed by the city, village or municipality at the time of his entry into such armed service, and (2) that he is or was reemployed by the city, village or municipality as a policeman or fireman within 6 months following the date of termination of his required enlistment or assignment in such armed service. A member shall be given service credit for the time he is absent from active service without full pay on account of sickness or injury. In event his absence from active service is due to nonservice connected sickness or injury, no more than 60 days of such absence shall be credited as service in any one calendar year, as determined by the board.

Options; election.

(g) Prior to the effective date of his retirement as provided in subsection (1) of this section, but not thereafter, any member may elect to receive his benefit in a pension payable throughout his life (called a regular retirement pension); or his may elect to receive the actuarial equivalent, computed as of the effective date of his retirement, of his regular retirement pension in a reduced retirement pension payable throughout his life, and nominate a survivor beneficiary, in accordance with the provisions of option I or II as hereinafter set forth. Except as otherwise provided in this act, in the event a member fails to elect an option prior to the effective date of his retirement, then his pension shall be paid to him as a regular retirement pension.

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Option I. Upon the death of a retired member his reduced retirement pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board prior to the effective date of his retirement; or

Option II. Upon the death of a retired member ½ of his reduced retirement pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the board prior to the effective date of his retirement.

Death after 20 years of service without election of option; payment to widow.

(h) Any member who continues in service on or after the date he acquires 20 years of service credit and does not have an option I election, provided for in paragraph (i) of this subsection (1), in force, and (1) dies while in service of the city or village, as the case may be, prior to the effective date of his retirement, and leaves a widow, his said widow shall receive a pension computed in the same manner in all respects as if the said member had (1) retired effective the day preceding the date of his death, (2) elected option I provided for in paragraph (g) of this subsection (1), and (3) nominated his said widow as survivor beneficiary. Upon the marriage or death of the said widow her pension shall terminate. No pension shall be paid under this paragraph on account of the death of a member if any benefits are paid under subsection (2) of this section on account of his death.

Election of option 1 after 25 years service.

(i) Any member who continues in service on or after the date he acquires 25 years of service credit may, at any time prior to the effective date of his retirement, by written declaration duly executed and filed with the board in the manner and form prescribed by the board, elect option I provided for in paragraph (g) of this subsection and nominate a survivor beneficiary whom the board finds to be dependent upon the said member for at least 50% of his support. If any member, who has an option I election provided for in this paragraph in force, dies while in service prior to the effective date of his retirement, his said survivor beneficiary shall immediately receive the same retirement allowance as the said survivor beneficiary would have been entitled to receive under the said option I if the said member had retired pursuant to the provisions of this act effective the day preceding the date of his death, notwithstanding that he may not have attained age 55 years. If any member, who has an option I election provided for in this paragraph in force, subsequently retires pursuant to the provisions of this act, he shall within 90 days immediately preceding the effective date of his retirement, but not thereafter, have the right to make any election of option provided for in paragraph (g) of this subsection; said option election to become effective as of the effective date of his retirement. No pension shall be paid under this paragraph on account of the death of a member if any benefits are paid under subsection (2) of this section on account of his death.

Disability and service-connected death benefits.

(2) Disability and service-connected death benefits:

Widow's duty death pension.

(a) To widows, a duty death pension of the same amount each week as that which has been paid her under the provisions of the workmen's compensation act, to become due and payable on the termination of the payments to her by said municipality under the provisions of the workmen's compensation act, and to continue for her life or until her remarriage.

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Children's duty death pension.

(b) In the event that death results to a member in line of duty, who shall leave surviving children, said children shall be paid a pension of the same amount as that which has been paid to them as a weekly benefit under the workmen's compensation act, to become due and payable upon termination of the payments under the provisions of the workmen's compensation act, and to continue to each surviving child until he or she attains age 18 years, or his or her marriage or death prior to age 18 years.

Other dependents' duty death pension.

(c) In the event that death results to a member in line of duty who shall leave surviving him other dependents, such dependents shall receive a pension of the same amount as that which has been paid to them as a weekly benefit under the workmen's compensation act, to become due and payable upon termination of the payments under the workmen's compensation act and to continue until such time as the board shall determine that the need for pension or pensions no longer exists.

Duty disability pension; medical examination.

(d) Upon the application of a member, or his department head, a member who becomes totally incapacitated for duty by reason of a personal injury or disease occurring as the natural and proximate result of causes arising out of and in the course of his employment by the city, village or municipality shall be retired by the retirement board. After a medical examination of any member made by a medical committee, consisting of a physician named by the retirement board, a physician named by the member claiming benefits, and a third physician designated by the first 2 physicians so named, the medical committee, by a majority opinion, certified in writing (1) that the member is mentally or physically incapacitated for the further performance of duty as a policeman or fireman in the service of the city, village or municipality, and (2) that such incapacity is likely to be permanent, and (3) that the member should be retired. Upon retirement for disability as provided in this paragraph, a member who has not attained age 55 years shall receive a disability retirement pension of 50% of his average final compensation; the average final compensation to be determined according to the provisions of subsection (1), paragraph (e) of this section, and shall be payable to his attainment of age 55 years. Upon attaining age 55 years, said disabled member shall receive a disability pension computed according to section 6 (1) (d) hereof. In computing the pension he shall be given service credit for the period he was in receipt of a disability pension prior to his attainment of age 55 years. If a member retired after he has attained age 55 years on account of disability, as provided in this paragraph, he shall receive a disability pension computed according to section 6 (1) (d) hereof, notwithstanding that he may not have 25 years of service credit. The disability pension provided for in this paragraph shall be subject to paragraphs (f) and (g) of this subsection (2).

Nonduty disability pension; medical examination.

(e) Upon the application of a member, or his department head, a member in service who has 5 or more years of service credit becomes totally and permanently incapacitated for duty by reason of a personal injury or disease occurring as the result of causes arising outside the course of his employment by the city, village or municipality may be retired by the retirement board. After a medical examination of said member made by a medical committee, consisting of a physican named by the retirement board, a physician named by the member claiming benefits, and a third physician designated by the first 2 physicians so named, the medical committee, by a majority opinion certifies in writing (1) that the said member is mentally or physically incapacitated for the further performance of duty as a policeman or fireman in the service of the city, village or municipality, and (2) that such incapacity is likely to be permanent, and (3)

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that said member should be retired. Upon retirement for disability, as provided in this paragraph, a member who has not attained age 55 years shall receive a disability retirement pension to his attainment of age 55 years, or prior recovery or death, of 1.5% of his average final compensation multiplied by the number of years of service credited to him; upon attaining age 55 years his disability retirement pension shall be increased to 2% of his average final compensation multiplied by the number of years of service credited to him at the time of his retirement. Upon retirement for disability as provided in this paragraph, a member who has attained age 55 years shall receive a disability pension computed according to section 6 (1) (d) hereof. The provisions of this paragraph shall be subject to the provisions of paragraphs (f) and (g) of this subsection (2).

Periodic medical examinations; workmen's compensation, effect.

(f) At least once each year during the first 5 years following the retirement of a member with a disability retirement pension and at least once in every 3-year period thereafter, the board may, and upon the retired member's application shall, require any retired member who has not attained age 55 years to undergo a medical examination to be made by or under the direction of a physician, designated by the board, at the place of residence of the said retired member or other place mutually agreed upon. Should any retired member who has not attained age 55 years refuse to submit to such medical examination in any such period, his disability retirement pension may be discontinued by the board and should such refusal continue for 1 year all his rights in and to his disability retirement pension may be revoked by the board. If upon such medical examination of said retired member the said physician reports to the board that the said retired member is physically able and capable of resuming employment in the classification held by him at the time of his retirement, he shall be restored to active service in the employ of the city, village or municipality and payment of his disability pension shall cease provided the report of the physician is concurred in by the board. A retired member so restored to active service shall from the date of his return to service again become a member of the retirement system and he shall contribute to the retirement system thereafter in the same manner as prior to his disability retirement. Any service credited to him at the time of his disability retirement shall be restored to full force and effect. He shall be given service credit for the period he was receiving a duty disability pension provided for in paragraph (d) of this subsection (2); he shall not be given service credit for the period he was receiving a nonduty disability pension provided for in paragraph (e) of this subsection (2). Any amounts paid under the provisions of the workmen's compensation act of the state of Michigan, to a retired member shall be offset against and payable in lieu of any benefits provided under the provisions of this act. In the event the benefits under the compensation act are less than the benefits payable under this act, then the amount to be paid out of the funds of the retirement system shall be the difference between the benefits provided under the compensation act and the benefits herein provided. Upon the termination of benefits under the compensation act, then and thereafter benefits shall be paid in full accordance with the provisions of this act.

Disability retirant; election to continue disability pension after age 55.

(g) Within 60 days prior to his attainment of age 55 years, or prior to his retirement from service if his retirement occurs after his attainment of age 55 years, a disabled member who is retired as provided in paragraph (d) or (e) of this subsection (2) may elect to continue to receive his disability retirement pension as a benefit terminating at death (to be known as a regular disability pension), or he may elect to receive the actuarial equivalent, at that time, of his regular disability retirement pension in a reduced disability retirement pension payable throughout life in accordance with the provisions of option I or II provided in paragraph (g) of subsection (1) of this section.

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In event a disabled member fails to elect an option, as herein provided, prior to his attainment of age 55 years or prior to his retirement, his retirement pension shall be paid to him as a regular disability pension terminating at his death. In event a disabled member who has not elected option I or II dies before the total of his regular disability pension payments received by him equals or exceeds the total of his contributions made to the retirement system, the remainder, if any, shall be paid in a single sum to such person or persons as he shall have nominated by written designation duly executed and filed with the board. If there be no such designated person or persons surviving, then such remainder, if any, shall be paid to the retired member's legal representative.

HISTORY: Am. 1939, p. 398, Act 210, Eff. Sep. 29;—Am. 1945, p. 367, Act 256, Eff. Sep. 6;—Am. 1947, p. 337, Act 229, Imd. Eff. Jun. 17;—CL 1948, 38.556;—Am. 1951, p. 17, Act 16, Imd. Eff. Mar. 30;—Am. 1954, p. 410, Act 173, Eff. Aug. 13;—Am. 1955, p. 459, Act 263, Imd. Eff. Jun. 29;—Am. 1956, p. 323, Act 169, Imd. Eff. Apr. 16;—Am. 1959, p. 325, Act 224, Eff. Mar. 19, 1960;—Am. 1961, p. 331, Act 201, Eff. Sep. 8;—Am. 1965, p. 214, Act 137, Imd. Eff. Jul. 12;—Am. 1967, p. 486, Act 256, Eff. Nov. 2; 1968;—Am. 1970, p. 617, Act 230, Imd. Eff. Nov. 25.

38.556a Pensions and benefits; death of member without election of option; duration of service in certain cities.

Sec. 6a. In municipalities having a population of 80,000 or more, subsection (h) of section 6 of this act shall be applicable to any member who continues in service on or after the date he acquires 15 years of service credit.

HISTORY: Add. 1963, p. 65, Act 57, Eff. Sep. 6.

38.556b Pensions and benefits; vested rights not altered by disciplinary action.

Sec. 6b. Any member having served a sufficient time to be eligible for benefit rights other than disability benefits under this act who continues in service beyond that time shall have vested rights in such pension and benefit rights as of that time and any disciplinary actions, charges or complaints accruing beyond the eligibility date shall not have any bearing on such vested rights.

HISTORY: Add. 1969, p. 396, Act 215, Eff. Jan. 1, 1970.

38.557 "Act of duty" and "municipality"; definitions.

Sec. 7. "An act of duty" shall be defined as any act performed by a fireman or policeman arising out of and in the course of his employment as such, or the performance of any act pertinent or incidental to the work of a fireman or policeman, regardless of time or place.

"Municipality" shall be construed to include counties, townships, charter townships, cities and incorporated villages.

HISTORY: Am. 1945, p. 369, Act 256, Eff. Sep. 6;—CL 1948, 38.557;—Am. 1951, p. 20, Act 16, Imd. Eff. Mar. 30;—Am. 1968, p. 306, Act 210, Imd. Eff. Jun. 24.

38.558 Refunds of salary contributions.

Sec. 8. Refunds of salary contributions:

(1) Should a fireman or policeman die before being placed on pension, the total amount of his salary deductions, with interest as the board may determine, but not to exceed 2% per annum, shall be payable to such person or persons as he shall have nominated by written designation duly executed and filed with the board; if there be no such designated person or persons surviving, then the total of his salary deductions shall be paid to his legal representative.

(2) Should a fireman or policeman become separated from the service before being eligible for retirement, he shall be paid the total of his contributions together with interest as the board may determine, but not to exceed 2% per annum credited to him upon his written request for such refund. Should such an individual again become employed by the city, village or municipality as a policeman or fireman he shall, within 1

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year following his reemployment, repay to the retirement system the amount previously withdrawn by him together with interest at 2% per year.

HISTORY: Am. 1939, p. 399, Act 210, Eff. Sep. 29;—Am. 1947, p. 341, Act 229, Imd. Eff. Jun. 17;—CL 1948, 38.558;—Am. 1951, p. 20, Act 16, Imd. Eff. Mar. 30;—Am. 1957, p. 57, Act 52, Eff. Sep. 27.

38.559 Retirement system reserve; revenues and accumulations.

Sec. 9. Revenues and accumulations of an adequate reserve:

(1) The contributions of a member to the retirement system shall be 5 per cent of the salary paid to him by the city, village or municipality. The officer or officers responsible for making up the payroll shall cause the contributions provided for in this paragraph to be deducted from the salary of each member on each and every payroll for each and every payroll period so long as he remains an active member in the employ of the city, village or municipality and each of said amounts when deducted shall be paid into the funds of the retirement system. The members' contributions provided for herein shall be made notwithstanding that the minimum salary provided for by law shall be changed thereby. Every member shall be deemed to consent and to agree to the deductions made and provided for herein and shall receipt for his full salary and payment of his salary less said deduction which shall be a full and complete discharge and acquittance of all claims and demands for the services rendered by such member during the period covered by such payment, except as to benefits provided by this retirement system.

(2) For the purpose of creating and maintaining a fund for the payment of the pensions and other benefits payable hereunder, the said city, village or municipality, subject to the provisions of this act, shall appropriate, at the end of such regular intervals as may be adopted, quarterly, semi-annually, or annually, an amount sufficient to maintain actuarially determined reserves covering pensions payable or which might be payable on account of service performed and to be performed by active members and pensions being paid retired members and beneficiaries: Provided, That the appropriations to be made by the said city, village or municipality in any fiscal year shall be sufficient to pay all pensions due and payable in that fiscal year to all retired members and beneficiaries: Provided further, That in no event shall the amount of such appropriation in any fiscal year be less than 10 per cent of the aggregate pays received during the said fiscal year by members of the retirement system unless by actuarial determination it is satisfactorily established that a lesser percentage is needed. All such deductions and appropriations shall be payable to the treasurer of said city, village or municipality and by him to be paid into the retirement system hereunder. Except in cities which are subject to the 15 mill tax limitation as provided by article 10, section 21 of the state constitution, the amount required by taxation to meet the appropriations to be made by cities, villages and municipalities under the provisions of this act shall be in addition to any tax limitation imposed upon tax rates in such cities, villages and municipalities by charter provisions or by state law.

(3) If, at the beginning or during any fiscal year, it has been satisfactorily determined by the retirement board that the accumulated funds of the retirement system plus the city's, village's or municipality's contribution of 10 per cent of the aggregate pays received during the said fiscal year by members of the retirement system plus members' contributions of 5 per cent of payroll, be insufficient to pay all pensions and other benefits due and payable in said year out of funds of the retirement system, then all pensions and other benefits payable shall be prorated for the remainder of the fiscal year by the board.

(4) Any clerical, legal, actuarial, or medical expenses required by the board, or any other necessary expense for the operation of the retirement system, shall be provided for by the city, village or municipality.

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(5) All pensions allowed and payable to retired members and beneficiaries under the provisions of Act No. 345 of the Public Acts of 1937, as amended, being sections 38.551 to 38.562, inclusive, of the Compiled Laws of 1948, shall become obligations of and be payable from the funds of the retirement system.

(6) The right of any person to a pension, to the return of contributions, any optional benefits, any other right accrued or accruing to any member or beneficiary under the provisions of this act and the moneys belonging to the retirement system shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, except as is specifically provided in this act.

HISTORY: Am. 1939, p. 399, Act 210, Eff. Sep. 29;—Am. 1945, p. 369, Act 256, Eff. Sep. 6;—Am. 1947, p. 341, Act 229, Imd. Eff. Jun. 17;—CL 1948, 38.559;—Am. 1951, p. 20, Act 16, Imd. Eff. Mar. 30.

38.560 Retirement system funds; investment.

Sec. 10. Any and all cash assets and funds on hand not necessary for immediate payment of pensions or benefits hereunder shall be invested subject to all the terms, conditions, limitations and restrictions imposed by the statutes of this state upon life insurance companies in making and disposing of their investments, and as provided by law relating to investment authority of public employee retirement systems and any and all assets of every description of the pension or retirement fund created by any city, village or municipality so affected by this act, shall be transferred and deposited to the credit of the newly created retirement system under this act.

HISTORY: Am. 1947, p. 342, Act 229, Imd. Eff. Jun. 17;—CL 1948, 38.560;—Am. 1965, p. 49, Act 33, Eff. Mar. 31, 1966.

38.561 Referendum; township or charter township.

Sec. 11. At any time after this act shall become effective, any city, village or municipality having a paid or part paid fire or police department, may come under the provisions of this act and create a pension board hereunder by submitting the same to the electors of any such city, village or municipality at any regular or special election for adoption, in the manner provided by law for amending charters: Provided, That this act shall not become effective until the beginning of the next succeeding fiscal year after such adoption of the provisions of this act by any city, village or municipality: Provided further, That where no provision is made in the charter of the city, village or municipality for amending said charters, this act may be submitted for adoption in accordance with any law authorizing the amending of the charters of cities: Provided further, That in case of a township or charter township, this act shall be submitted to the qualified electors of such township or townships by the township board on the filing of a petition requesting the submission, signed by 10 per cent of the registered and qualified electors in such township or charter township, at any general election or special election called for that purpose by the township board, in accordance with the laws of this state, and this act shall be in force and effect in any such township or charter township if a majority of the electors voting on such proposition, as determined by the canvass of votes cast, shall vote in favor thereof.

HISTORY: Am. 1939, p. 399, Act 210, Eff. Sep. 29;—Am. 1945, p. 369, Act 256, Eff. Sep. 6;—CL 1948, 38.561;—Am. 1951, p. 21, Act 16, Imd. Eff. Mar. 30.

38.562 Retirement system; membership, inclusions, exclusions.

Sec. 12. (1) The membership of the retirement system created by the city, village or municipality so affected by this act shall include all policemen and firemen employed by the city, village or municipality. Any policeman or fireman, who is a member of the retirement system, (1) who is transferred from the classification of a policeman or fireman to a civilian position within the police or fire department or (2) who is transferred from the police or fire department of the city, village or municipality to another department of the city, village or municipality by an officer or body of such city, village or municipality authorized to make such transfer, shall continue a member of this re-

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tirement system covering policemen and firemen, and shall be subject to all provisions of said retirement system: Provided, That in event the officers and employees of the department to which said individual is transferred are now or may be hereafter covered by an annuity pension, or retirement system to which the said city, village or municipality makes contributions and said individual so transferred becomes entitled to membership in said system, he shall thereupon cease to be a member of this policemen and firemen retirement system.

(2) The membership of the retirement system shall not include (1) volunteer firemen, (2) privately employed policemen and firemen, (3) persons temporarily employed during emergencies, nor (4) civilian employees of the police and fire departments, except as provided in subsection (1) of this section.

HISTORY: Am. 1939, p. 400, Act 210, Eff. Sep. 29;—Am. 1947, p. 342, Act 229, Imd. Eff. Jun. 17;—CL 1948, 38.562;—Am. 1951, p. 22, Act 16, Imd. Eff. Mar. 30.

Sec. 13. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 14. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Sec. 15.

HISTORY: Am. 1939, p. 400, Act 210, Eff. Sept. 29;—Rep. 1945, p. 369, Act 256, Eff. Sept. 6.

This section limited liability of city or village to amount in pension and retirement; and for an actuarial valuation of the fund.

Act 28, 1966, p. 53; Imd. Eff. May 3.

AN ACT to authorize the board of trustees of police and firemen or municipal employees retirement systems to increase benefits. Am. 1968, p. 296, Act 201, Imd. Eff. Jun. 24.

The People of the State of Michigan enact:

38.571 Reserve fund; use of interest for medical, hospital, or nursing care for system member.

Sec. 1. The board of trustees with the approval of the governing body of the city, village or township of any police and firemen or municipal employees retirement system may use not more than 1/2 of the interest earned by any reserve fund in the system to contract for medical, hospital or nursing care for any person receiving benefits of the system. "Reserve fund" means the moneys contributed by the city, village or township.

HISTORY: New 1966, p. 53, Act 28, Imd. Eff. May 3;—Am. 1968, p. 296, Act 201, Imd. Eff. Jun. 24.

38.572 Computation of liability for regular interest; inclusions, exclusions.

Sec. 2. The amount of interest used according to the provisions of this act shall be included as interest and other earnings on the money of the retirement system in the computation of any city, village or township liability for regular interest. These supplemental benefits shall not be considered an increase in the rate of retirement allowances to be paid. They shall be on a year-to-year basis and shall not create a liability for their continuance.

HISTORY: New 1966, p. 53, Act 28, Imd. Eff. May 3.

Act 135, 1945, p. 150; Imd. Eff. May 3.

AN ACT to provide for a municipal employees' retirement system; to create a municipal employees' retirement board and prescribe its powers and duties; to establish certain funds in connection therewith and to require contributions thereto by the par-

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ticipating municipalities and the municipal employees; and to provide penalties for the violation of certain provisions of this act.

The People of the State of Michigan enact:

38.601 Municipal employees' retirement act; short title.

Sec. 1. Name. This act shall be known and may be cited as the "Municipal employees' retirement act."

HISTORY: CL 1948, 38.601.

COMPILERS' NOTE: The catchlines following the act section numbers of this act were incorporated as a part of the act when enacted.

CITED IN OTHER SECTIONS: Sections 38.601 to 38.667 are cited in §§ 38.853 and 46.12a.

38.602 Municipal employees' retirement act; definitions.

Sec. 2. As used in this act:

(a) "Retirement system" or "system" means the municipal employees' retirement system established by this act.

(b) "Board" means the retirement board provided for in this act to administer the retirement system.

(c) "Municipality" means (1) a county, county road commission, city, village or township; (2) any separate corporation or instrumentality permitted by law and established by 1 or more counties or cities or villages or townships or any combination thereof; (3) any public corporation or instrumentality charged by law with the performance of a governmental function and whose jurisdiction is coextensive with 1 or more counties, cities, villages or townships, or any combination thereof.

(d) "Participating municipality" means any municipality which has elected to come under the provisions of this act, as hereinafter provided. Any 2 or more municipalities may enter into an agreement with each other and the retirement system to be considered as a single participating municipality.

(e) "Governing body" means the representative legislative body of a municipality, or the administrative board or commission of any corporation or instrumentality coming within the above definition of a municipality.

(f) "Municipal employee" means any person who receives compensation from the participating municipality for personal services rendered to the participating municipality. The term "municipal employee" shall also include persons employed by a hospital supported in whole or in part from the funds of the participating municipality. The term "municipal employee" shall also include persons who are active members of the state employees' retirement system provided in Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948, or who are active members of the Michigan public school employees' retirement system provided in Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.357 of the Compiled Laws of 1948, or who are active members of the Michigan judges' retirement system provided in Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 through 38.830 of the Compiled Laws of 1948, only to the extent of compensation received from the participating municipality for personal services rendered and which are not creditable by the state employees' retirement or by the Michigan public school employees' retirement system or by the Michigan judges' retirement system. The term "municipal employee" shall not include any person (1) who is included as an active member in any other pension plan or retirement system supported in whole or in part from the funds of the participating municipality except the federal social security old age, survivors and disability insurance program, as amended; nor (2) who holds the position of mayor or village president of the participating municipality, or who is a member of the governing body of the participating

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municipality; the mayor, village president or any member of the governing body of the participating municipality having 10 or more municipal employees may become a member of the retirement system after June 30, 1966, if within 30 days after the date the municipality becomes a participating municipality, or within 30 days after the date he has qualified for such position, whichever date is later, he files with the board a written request to be included as a member of the retirement system; if he is covered under the federal social security old age, survivors and disability insurance program, as amended, on account of his employment with the participating municipality; nor (3) who acts for the participating municipality under contract; nor (4) who is paid wholly on a fee basis except county elected officials; nor (5) who is an active member of the Michigan probate judges' retirement system.

(g) "Member" means any municipal employee included in the membership of the retirement system.

(g-1) "Noncovered member" means any member who is not covered under the federal social security old age, survivors, disability and health insurance program, as amended, on account of his employment with a participating municipality.

(g-2) "Covered member" means any member who is or becomes covered under the federal social security old age, survivors, disability and health insurance program, as amended, on account of his employment with a participating municipality.

(h) "Retirant" means any member who retires with a retirement allowance payable by the retirement system.

(h-1) "Beneficiary" means any person, other than a retirant, who is in receipt of or who is designated to receive a retirement allowance or other benefit payable by the retirement system.

(i) "Compensation" means the remuneration paid a member by a participating municipality on account of personal services rendered by him. In cases where a member's remuneration is not all paid in money, the participating municipality employing the member shall fix the value of his remuneration not paid in money.

(j) "Final average compensation" means 1/5 of the aggregate amount of compensations received by a member during the period of 5 consecutive years of his credited service, contained within his 10 years or less of credited service immediately preceding his retirement, in which the aggregate amount of compensation is highest. If he has less than 5 years of credited service, final average compensation means the aggregate amount of compensations received by him divided by his credited service.

(k) "Accumulated contributions" means the sum of all amounts credited to a member's individual account in the employees' savings fund, together with regular interest thereon.

(l) "Annuity" means an annual amount, derived from a member's accumulated contributions, payable in monthly installments throughout the future life of a person, or for a temporary period, as provided in this act.

(m) "Pension" means an annual amount, derived from moneys provided by a participating municipality, payable in monthly installments throughout the future life of a person, or for a temporary period, as provided in this act.

(n) "Retirement allowance" means the sum of the annuity and the pension payable to a retirant or beneficiary.

(o) "Annuity reserve" means the present value, computed upon the basis of such mortality tables and regular interest as the board shall from time to time adopt, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted under this act.

(p) "Pension reserve" means the present value, computed upon the basis of such mortality and other tables of experience and regular interest as the board shall from

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time to time adopt, of all payments to be made on account of any pension, or benefit in lieu of any pension granted under this act.

(q) "Regular interest" means such rate or rates of interest per annum, compounded annually, as the board shall from time to time determine.

(q-1) "Prior service" means service rendered to a municipality as a municipal employee prior to the date the municipality becomes a participating municipality. Prior to the retirement of a member, but not later than 1 year from and after the date the municipality becomes a participating municipality, the clerk of the municipality shall certify, in writing, to the board the amount of prior service to be credited each member in the employ of the municipality. Except as otherwise provided in this act, no prior service shall be so certified by a municipality for a member unless he is in the employ of the municipality within a period of 1 year from and after the day preceding the date the municipality becomes a participating municipality. The board shall credit each such member's service account with the prior service so certified, consistent with the rules established for the crediting of service.

(q-2) "Membership service" means service rendered to a municipality by a municipal employee after the date the municipality becomes a participating municipality.

(r) "Credited service" means the total of a member's prior service and membership service to the extent credited him by the board. In crediting such service, in no case shall less than 10 days of service rendered in any calendar month be credited as a month of service; nor shall less than 10 months of service rendered in any calendar year be credited as 1 year of service; nor shall more than 1 year of service be credited any member for all service rendered by him in any 1 calendar year. If a person becomes a member of the retirement system subsequent to the date the municipality by which he is employed becomes a participating municipality, he shall receive credit for his certified prior service, if any, and he shall receive credit for his retroactive membership service only if he pays to the retirement system, in such manner as the board shall determine, an amount equal to the amount his accumulated contributions would have been had he become a member as of the date the municipality became a participating municipality or as of the date of his eligibility for membership as provided in section 18.

(r-1) "Service account" means an account which shall be maintained by the board for each member and to which shall be credited the prior service and the membership service to which he is entitled.

(s) "Retirement" means a member's withdrawal from the employ of a participating municipality with a retirement allowance payable by the retirement system.

(t) "Benefit program" means a schedule of benefits or benefit formulas from which the amount of a retirement allowance or other benefit can be determined.

(u) "Member contribution program" means a schedule of contributions or contribution formulas from which the amount of a member's contributions to the retirement system can be determined.

(v) "Actuarial equivalent" means a retirement allowance or other benefit of equal reserve value, computed on the basis of such tables as the board may from time to time adopt and regular interest.

HISTORY: Am. 1947, p. 437, Act 274, Eff. Oct. 11;—CL 1948, 38.602;—Am. 1951, p. 200, Act 163, Imd. Eff. Jun. 6;—Am. 1955, p. 230, Act 180, Imd. Eff. Jun. 7;—Am. 1957, p. 361, Act 273, Eff. Sep. 27;—Am. 1962, p. 445, Act 201, Eff. Mar. 28, 1963;—Am. 1963, p. 23, Act 22, Imd. Eff. Apr. 25;—Am. 1966, p. 143, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 609, Act 314, Imd. Eff. Aug. 14.

38.603 Retirement system; creation; retirement board, membership.

Sec. 3. (1) The municipal employees' retirement system is created. The administration, management and responsibility for making effective the provisions of this act, and the authority to make all rules therefor, are vested in a retirement board. The retirement board shall consist of 7 members, as follows:

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(a) The state treasurer.

(b) Three officers of participating municipalities.

(c) Three municipal employees who are members of the retirement system.

(2) The 3 officers and 3 municipal employees shall be appointed by the governor from a list of nominees as provided in this act. No more than 1 board member, excluding the state treasurer, shall be from any one county.

HISTORY: CL 1948, 38.603;—Am. 1955, p. 231, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 612, Act 314, Imd. Eff. Aug. 14.
CITED IN OTHER SECTIONS: The above section is cited in § 16.206.

38.604 Repealed. 1955, p. 246, Act 160, Imd. Eff. Jun. 7.

Section provided for temporary administration of the retirement system.

38.605 Retirement board; estimates of contributions required for municipalities to include eligible employees.

Sec. 5. The board shall furnish any municipality, upon the request of its governing body, and upon the furnishing of necessary data regarding each of its employees by the said municipality, an estimate, actuarially determined, of the annual rate of contributions required of the said municipality to include its eligible employees in the membership of the retirement system. The expense of preparing said estimate shall be paid by the said municipality.

HISTORY: CL 1948, 38.605;—Am. 1955, p. 232, Act 160, Imd. Eff. Jun. 7.

38.606 Election of membership by municipality; effective date; equality of employees' coverage.

Sec. 6. Any municipality, either by a 3/5 majority vote of its governing body or by a majority vote of the qualified electors of such municipality, may (1) elect to come under the provisions of this act and become a participating municipality, (2) elect an effective date for its coverage, and (3) elect a benefit program or programs and a member contribution program or programs for its employees. In electing an effective date for its coverage a municipality shall be restricted to the first day of a calendar month which is not more than 30 days following the first day of its next fiscal year. All employees of a participating municipality who are in the same general class or classification, as determined by the board, shall be covered by the same benefit program and member contribution program.

The clerk or secretary of the municipality shall certify to the board in the manner and form prescribed by the board, the determination of the municipality within 10 days from the vote of the governing body or canvass of the votes upon such action.

HISTORY: CL 1948, 38.606;—Am. 1951, p. 201, Act 163, Imd. Eff. Jun. 6;—Am. 1955, p. 232, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 612, Act 314, Imd. Eff. Aug. 14.

38.606a Presently participating municipalities; election of membership presumed.

Sec. 6a. Each municipality that is a participating municipality on the effective date of this 1969 amendatory act shall be assumed to have elected the benefit program or programs and the member contribution program or programs which correspond to the benefits being provided and the member contributions required on the day preceding the effective date of this act.

HISTORY: Add. 1955, p. 232, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 612, Act 314, Imd. Eff. Aug. 14.

38.606b Election of change in benefit coverage; effective date; actuarial valuation, costs.

Sec. 6b. A participating municipality, either by a 3/5 majority vote of its governing body or by a majority vote of its qualified electors, may elect to change the benefit program or programs and the member contribution program or programs which cover its employees, and elect an effective date for the change in coverage. In electing an effective date for the change in coverage a participating municipality shall be restricted

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to the first day of a calendar month which is not more than 30 days following the first day of its next fiscal year. No such change shall diminish the value of benefits financed by the municipality. All employees of the participating municipality who are in the same general class or classification, as determined by the board, shall be covered by the same benefit program and member contribution program. The clerk or secretary of the participating municipality shall certify to the board, in the manner and form prescribed by the board, the determination of the participating municipality within 10 days after the vote of the governing body or canvass of the votes upon such action. The cost of any actuarial valuation requested by a participating municipality to determine its contributions under a proposed change in coverage and the cost of any special actuarial valuation requested by the board to determine the contributions of a participating municipality which has changed its coverage shall be paid by the participating municipality.

HISTORY: Add. 1966, p. 145, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 612, Act 314, Imd. Eff. Aug. 14.

38.607 Withdrawal from system; effective date, eligibility for renewal.

Sec. 7. Any participating municipality may elect to withdraw from membership in the retirement system and the provisions of this act by a majority vote of the qualified electors of the municipality, which vote shall be initiated, conducted and canvassed in the same manner as required of the vote to come under the act. It shall be the duty of the clerk or secretary of each participating municipality electing to withdraw from membership to certify the determination of the municipality to the board within 10 days from and after the canvass of the votes upon such action. The effective date of any municipality's withdrawal from the retirement system shall be the first day of the budgetary year of such municipality occurring not less than 1 year after such election. In the event a participating municipality elects to withdraw from membership in the retirement system, it shall not again become eligible to become a participating municipality until the expiration of a period of 5 years following the date its withdrawal from membership became effective. The rights and benefits accrued to members, retirants and beneficiaries, who are or were in the employ of the said withdrawing municipality and the disposition of any balances credited to the said withdrawing municipality in the funds of the retirement system, shall be treated as provided for in section 63 of this act.

HISTORY: CL 1948, 38.607;—Am. 1955, p. 232, Act 160, Imd. Eff. Jun. 7.

38.608, 38.609 Repealed. 1955, p. 246, Act 160, Imd. Eff. Jun. 7.

Sections provided for effective date of establishment of retirement system and the initial retirement board.

38.610 Annual meeting of participating municipalities; delegates, election.

Sec. 10. An annual meeting of the participating municipalities shall be called by the board to be held in the city of Lansing or at such place as the board shall determine in the month of October of each year for the purpose of selecting nominees for membership on the retirement board and to transact such other business as may be required for the proper operation of the retirement system. Notice of such meeting shall be sent by registered mail to the clerk (or corresponding officer) of each participating municipality not less than 30 days prior to the date of such meeting. The governing body of each participating municipality shall certify to the board the name of 1 delegate who shall be an officer of the participating municipality, and the employees of the municipality shall certify to the board a municipal employee of the participating municipality, to represent the said participating municipality at such meeting. Under such rules and regulations as the board shall adopt, approved by the delegates, the delegates shall select twice the number of nominees as there are positions on the board to be filled. The board shall within 5 days certify to the governor the list of nominees and the governor shall, within 30 days, appoint the member or members of the retirement board

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in the classifications provided for in this act from the said list of nominees; said appointment or appointments to be for terms of 3 years each from the 1st day of January following the date of the annual meeting at which he or they were nominated. The delegate certified as employee delegate shall be elected by secret ballot by the employees of each participating municipality who are members of the retirement system. The clerk of each participating municipality shall be charged with the duty of conducting such election in a manner which will permit each qualified employee to vote in such election.

HISTORY: CL 1948, 38.610;—Am. 1951, p. 202, Act 163, Imd. Eff. Jun. 6;—Am. 1952, p. 323, Act 209, Eff. Sep. 18.

38.611 Retirement board; oath of office; compensation and expenses.

Sec. 11. Oath of office—Board members serve without compensation. Each member of the board upon his appointment shall take an oath of office which shall be immediately filed in the office of the secretary of state. The members of the board shall serve without compensation for their services as board members, but shall suffer no loss because of absence from their regular employment and shall be reimbursed for all actual and necessary travel and other expenses incurred in the performance of their official duties as board members.

HISTORY: CL 1948, 38.611.

38.612 Retirement board; vacancies.

Sec. 12. Vacancy on board—How filled. Any vacancy on the board occurring 90 days or more prior to the expiration of the term of any municipal member shall be filled by the governor for the balance of the term in which the vacancy occurs by a person in the same classification as the person whose retirement from the board created the vacancy.

HISTORY: CL 1948, 38.612.

38.613 Retirement board; nonattendance of appointive member.

Sec. 13. Failure of board member to attend meetings. In the event any appointive member of the board shall cease to be an officer or employee of a participating municipality, or shall fail to attend scheduled meetings of the board for 3 consecutive meetings, unless in each case excused by the remaining members of the board attending such meeting for cause, he shall be considered to have resigned from board membership and the board shall by resolution declare his office vacated as of the adoption of such resolution and shall notify the governor of the existence of such vacancy.

HISTORY: CL 1948, 38.613.

38.614 Retirement board; quorum.

Sec. 14. Quorum. Four members of the board shall constitute a quorum for the transaction of any business at any meeting of the board and at least 4 concurring votes shall be necessary for a decision by the board members at any meeting of the board.

HISTORY: CL 1948, 38.614.

38.615 Retirement board; election of chairman.

Sec. 15. The board shall elect from its members a chairman and a chairman pro tem.

Executive secretary, employees.

(a) The executive secretary of the state employees' retirement system, created by Act No. 240 of the Public Acts of 1943, shall be the executive secretary of the retirement system created by this act. The executive secretary shall, with the approval of the board and subject to the rules and regulations of the civil service commission, employ such administrative, technical and clerical employees as may be required for the proper operation of the retirement system.

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Actuary.

(b) The board shall appoint an actuary who shall be the technical advisor to the board regarding the operation of the retirement system on an actuarial basis and who shall perform such other duties as are required in connection therewith. The actuary shall be directly responsible to and shall hold office at the pleasure of the board.

Attorney general.

(c) The attorney general shall be legal advisor to the board and shall act as its attorney and shall represent it in all litigation to which it may be a party.

Medical director.

(d) The board shall appoint as medical director a physician who shall perform such duties as are required by the provisions of this act, and he shall be directly responsible to and shall hold office at the pleasure of the board. The medical director shall report, in writing, his conclusions on matters of a medical nature referred to him by the board.

Treasurer.

(e) The state treasurer shall be treasurer of the retirement system. All bonds and other securities purchased according to the provisions of this act shall be forthwith placed in the hands of the state treasurer, who is hereby designated as the custodian thereof, and it shall be his duty to collect the principal thereof and the interest thereon as the same becomes due and payable, and place the same when so collected into the funds of the retirement system. The state treasurer shall be the custodian of all other funds of the retirement system and all disbursements therefrom shall be paid by the state treasurer upon vouchers duly authorized by the board and bearing the signature of a duly authorized officer of the board. The state treasurer shall give a separate and additional bond in such amount as may be fixed by the board in the sum of not to exceed $100,000.00, which bond shall be approved by the board and the attorney general and shall be conditioned for the faithful performance of his duties as custodian of the funds of the retirement system provided for herein. The cost of such bond shall be paid out of the expense fund of the retirement system. Such bond shall be deposited with the secretary of state and kept in his office.

HISTORY: CL 1948, 38.615;—Am. 1957, p. 363, Act 273, Eff. Sep. 27.

38.616 Retirement system; quinquennial actuarial investigation required.

Sec. 16. The board shall collect and keep in convenient form such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system; and for making an actuarial investigation into the mortality, service, compensation and other experiences of members, retirants and beneficiaries. At least once in each 5-year period, the board shall cause an actuarial investigation to be made into the mortality, service, compensation and other experiences of members, retirants and beneficiaries. Upon the basis of such actuarial investigation, the board shall adopt such tables as are deemed necessary for the proper operation of the retirement system.

HISTORY: CL 1948, 38.616;—Am. 1955, p. 233, Act 160, Imd. Eff. Jun. 7.

38.617 Retirement board; annual financial report required.

Sec. 17. Annual report. The board shall annually furnish the governing body of each participating municipality and any municipal employee upon his request, as soon after the close of each fiscal year as possible, a statement showing the financial condition of the retirement system, after an actuarial valuation of the assets and liabilities of the retirement system; a statement of receipts and disbursements during the fiscal year; information concerning the investments of the retirement system; and such other information regarding the affairs of the retirement system as are deemed necessary for a proper understanding of the financial condition of the retirement system.

HISTORY: CL 1948, 38.617.

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38.618 Retirement system; employee membership; waiting period.

Sec. 18. Whenever a municipality elects to become a participating municipality, then each of its municipal employees, including each of the municipal employees of any separate corporation or instrumentality heretofore or hereafter created by it, shall be required to become a member of the retirement system. No municipal employee, employed (1) subsequent to the effective date upon which a municipality becomes a participating municipality, and (2) either for the first time by the participating municipality or more than 5 years after the date of his last separation from the employ of the participating municipality, shall become a member of the retirement system until he has thereafter been continuously employed by the participating municipality and has completed 6 months of creditable service. Upon so becoming a member, he shall be credited with membership service for the 6 months of creditable service. Such employee upon becoming a member may be permitted to make the contribution he would have made had he become a member upon the date of the employment.

HISTORY: CL 1948, 38.618;—Am. 1949, p. 79, Act 75, Eff. Sep. 23;—Am. 1951, p. 203, Act 163, Imd. Eff. Jun. 6;—Am. 1955, p. 233, Act 160, Imd. Eff. Jun. 7;—Am. 1966, p. 146, Act 124, Imd. Eff. Jun. 23.

38.618a Cessation of membership; reinstatement on re-employment.

Sec. 18a. Except as provided in this act, should a member separate from the employ of a participating municipality, except to become a retirant or because of his death, he shall thereupon cease to be a member and any prior service and membership service credited to his service account at the time of his separation from the employ of the participating municipality shall be forfeited by him. Should such person be reemployed by the participating municipality as a municipal employee within a period of 5 years after the date of his last separation from the employ of the participating municipality, he shall again become a member of the retirement system on the date of his reemployment, and his credited service forfeited by him at the time he last separated from the employ of the participating municipality shall be restored to his credit upon the return by him of all amounts he may have previously withdrawn from, and not returned to, the employees' savings fund, together with interest thereon from the date of withdrawal to the date of repayment computed at the rate in effect at the date of repayment. Upon a member becoming a retirant or upon his death he shall thereupon cease to be a member.

HISTORY: Add. 1955, p. 233, Act 160, Imd. Eff. Jun. 7;—Am. 1957, p. 364, Act 273, Eff. Sep. 27;—Am. 1966, p. 146, Act 124, Imd. Eff. Jun. 23.

38.618b Credit for prior and out-of-system service.

Sec. 18b. The board shall upon the request of a participating municipality, by a resolution of its governing body, give a member in the employ of said municipality such amounts of prior service and membership service credit as he had previously been credited by a retirement system of the state of Michigan or any of its political subdivisions thereof, but only under the following conditions: (1) That his employment by said participating municipality shall have occurred within 1 year following his separation from service of the last such unit of government by which he was employed; (2) that no such service rendered prior to the last break in service of more than 1 year shall be credited; (3) that any such service which is recognized for the purpose of a deferred retirement allowance under the retirement plan of the last such unit of government shall not be credited; and (4) that said member shall deposit in the employees' savings fund all amounts of accumulated contributions which have been refunded to him under the former retirement system or systems of which he was a member.

HISTORY: Add. 1955, p. 234, Act 160, Imd. Eff. Jun. 7.

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38.618c Retirement system; reciprocal system; applicability to former members.

Sec. 18c. A participating municipality which has elected to come under the provisions of Act No. 88 of the Public Acts of 1961, as amended, being sections 38.1101 to 38.1105 of the Compiled Laws of 1948, by resolution of its governing body, may make such provisions applicable to former members who left the employ of the participating municipality before the date the participating municipality elected to come under such provisions. Service shall not be credited such a member unless he returns to the employees' savings fund all amounts he withdrew therefrom at the time he left the employ of the participating municipality, together with regular interest thereon from the date of withdrawal to the date of repayment; the amount shall be returned within 1 year after the effective date of this amendment and in any event before the effective date of retirement.

HISTORY: Add. 1969, p. 396, Act 216, Imd. Eff. Aug. 6.

38.619-38.636 Repealed. 1953, p. 315, Act 213, Eff. Oct. 2.

Sections provided for plan A retirement benefits.

38.637, 38.638 Repealed. 1955, p. 246, Act 160, Imd. Eff. Jun. 7.

Sections provided for plan B retirement benefits.

38.639 Credit for military service; contributions to employees' savings fund.

Sec. 39. (a) Subject to subsection (b) of this section, any member who, while employed by a participating municipality, is called to or enters any armed service of the United States, or any member who, while employed by a participating municipality, was called to or entered any armed service, and who shall be or has been on active duty in the armed service during time of war or period of compulsory military service, shall have the armed service actually required of him credited to him in the same manner as if he had uninterruptedly served the said participating municipality.

(b) No armed service shall be credited a member unless (1) he is or was reemployed by the participating municipality within 6 months from the date of termination of the armed service actually required of him, and (2) he returns to the employees' savings fund all amounts he withdrew therefrom at the time he entered, or while in, or subsequent to, the armed service, together with regular interest thereon from the date of withdrawal to the date of repayment. In no case shall more than 6 years of service be credited a member for all armed service actually required of him. In any case of doubt as to the amount of required armed service to be credited a member, the board shall have final power to determine such amount.

(c) During the period of the required armed service and until his return to the employment of a participating municipality, his contributions to the employees' savings fund shall be suspended and any balance standing to his credit in the employees' savings fund shall be accumulated at regular interest. Any member who has required armed service credited him may contribute to the employees' savings fund, to be credited to his account, an amount not in excess of the amount of contributions he would have made had he remained in the employ of the participating municipality at the last rate of compensation paid him prior to his entrance into the armed service.

HISTORY: CL 1948, 38.639;—Am. 1951, p. 203, Act 163, Imd. Eff. Jun. 6;—Am. 1955, p. 234, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 613, Act 314, Imd. Eff. Aug. 14.

38.640 Retirement system funds; creation.

Sec. 40. The funds hereby created are the employees' savings fund, employers' accumulation fund, retirement reserve fund, casualty reserve fund, income fund, and the expense fund.

HISTORY: CL 1948, 38.640;—Am. 1955, p. 234, Act 160, Imd. Eff. Jun. 7.

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38.641 Employees' savings fund; contributions; payroll deductions.

Sec. 41. (a) The employees' savings fund shall be the fund in which shall be accumulated at regular interest member's contributions and repayments of contributions made in accordance with the provisions of this act, and from which shall be made refunds and transfers of accumulated contributions as provided in this act. The board shall maintain an individual account for each member showing the amounts of his contributions, together with regular interest credited thereon.

(b) The officer or officers responsible for preparing the payroll of a participating municipality shall cause the applicable contribution provided for in this act to be deducted from the compensation of each member, on each payroll, for each payroll period, so long as the member remains in the employ of the participating municipality. Every member shall be deemed to consent and agree to the deductions provided herein and payment of his compensation less deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by such payment, except for benefits provided by this retirement system. The members' contributions shall be deducted and made notwithstanding that the minimum compensation provided by law for any member may be thereby changed.

The paying officer or officers of each participating municipality shall certify to the disbursing officer of the participating municipality the amount of contribution deducted or to be deducted from the compensation of each member employed by the participating municipality. The aggregate amount of such deductions shall be paid to the retirement system by the disbursing officer of the participating municipality within 20 days following the end of each calendar month in which such deductions were made.

HISTORY: Am. 1947, p. 439, Act 274, Eff. Oct. 11;—CL 1948, 38.641;—Am. 1955, p. 234, Act 160, Imd. Eff. Jun. 7;—Am. 1966, p. 146, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 613, Act 314, Imd. Eff. Aug. 14.

38.641a Member contribution program I; benefit program B.

Sec. 41a. The contributions to the retirement system by a member whose participating municipality has elected to cover his class of member under member contribution program I shall be not less than 5% of his compensation, except that a member may limit to $4,200.00 the portion of his annual compensation subject to contributions by written request filed with the board. Member contribution program I shall be available only in conjunction with benefit program B. If a member covered under member contribution program I becomes covered under another member contribution program by the same participating municipality, any contributions made by him on portions of his annual compensation in excess of $4,200.00 shall be refunded to him.

HISTORY: Add. 1969, p. 614, Act 314, Imd. Eff. Aug. 14.

38.641b Member contribution program II.

Sec. 41b. The contributions to the retirement system by a member whose participating municipality has elected to cover his class of member under member contribution program II shall be not less than 5% of his compensation.

HISTORY: Add. 1969, p. 614, Act 314, Imd. Eff. Aug. 14.

38.641c Member contribution program III.

Sec. 41c. The contributions to the retirement system by a member whose participating municipality has elected to cover his class of member under member contribution program III shall be not less than 3% of the first $4,200.00 of his annual compensation plus not less than 5% of the portion of his annual compensation in excess of $4,200.00.

HISTORY: Add. 1969, p. 614, Act 314, Imd. Eff. Aug. 14.

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38.642 Employers' accumulation fund; pensions, payment.

Sec. 42. The employers' accumulation fund shall be the fund in which shall be accumulated reserves for the payment of all pensions payable as provided in this act, except pensions to be paid from the casualty reserve fund. The payment of all pensions as provided in this act shall be paid from the employers' accumulation fund except such pensions as are payable from the retirement reserve fund and the casualty reserve fund. The board shall provide for the maintenance of separate accounts for each participating municipality in the employers' accumulation fund.

Actuarial valuation of pension reserve liabilities.

(a) Within a reasonable period of time prior to the date any municipality becomes a participating municipality, the said municipality shall furnish the executive secretary with data regarding each person in its employ which the actuary determines to be necessary to make an actuarial valuation of the pension reserve liabilities arising on account of service rendered and to be rendered the said municipality. Upon receipt of such data, the actuary shall, based upon such tables of experience and regular interest, as the board shall from time to time adopt, compute the liabilities for pensions payable and which might be payable as provided in this act, on account of service rendered and to be rendered by the said municipality's employees. The actuary shall report to the board and the said municipality indicating the cost to the municipality of paying its initial accrued service pension obligation in a single sum, or by amortization payments over a period of years not to exceed 40 years.

Initial accrued service pension obligation; agreement for payment.

(b) Based upon the actuary's report, as provided in subsection (a) of this section, the board and the governing body of the said municipality shall enter into an agreement which, in addition to other provisions, shall provide for the payment of the initial accrued service pension obligation of the said municipality.

Same; payment.

Each participating municipality having an initial accrued service pension obligation shall pay such obligation to the retirement system in the manner agreed upon. Upon receipt of such payments the board shall credit the employers' accumulation fund account of the participating municipality making the payment.

Pension reserve liabilities; computation, amortization of accrued liabilities; payment of contribution by municipality.

(c) Based upon such tables of experience and regular interest as the board shall from time to time adopt, the actuary shall annually compute the pension reserve liabilities for pensions being paid from the employers' accumulation fund account of each participating municipality and the accrued pension reserve liabilities for each participating municipality's members who have not retired. The said accrued pension reserve liabilities, less the sum of the balance standing to the said participating municipality's credit in the employers' accumulation fund and the present value of the remaining payments to be made by the said participating municipality for its initial accrued service obligation, shall be amortized over a period of years to be determined by the board, but in no case more than 40 years from and after the said participating municipality's last valuation date. The board shall annually certify to the governing body of each participating municipality the contribution so determined, as provided herein, and each such participating municipality shall, during its ensuing fiscal year, pay such contribution into the funds of the retirement system. Upon receipt of such payments the board shall credit the employers' accumulation fund account of the participating municipality making such payment.

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Same; computation of annual contribution, payment.

(d) Based upon such tables of experience and regular interest as the board shall from time to time adopt, the actuary shall annually compute the amount of contribution, which if paid annually by each participating municipality during the prospective service of the municipal employees in the employ of each of the respective participating municipalities, will be sufficient to provide the pension reserves required at the time of their retirements to cover pensions, based upon their prospective service, to which they might become entitled. The board shall annually certify to the governing body of each participating municipality the amount of contribution so ascertained and each such participating municipality shall, during its ensuing fiscal year, pay such amounts into the funds of the retirement system. Upon receipt of such payments the board shall credit the employers' accumulation fund account of the participating municipality making such payment. Upon the retirement of a member without prior service credit the pension reserve for the pension to which he is entitled shall be transferred from the employers' accumulation fund to the retirement reserve fund.

HISTORY: CL 1948, 38.642;—Am. 1955, p. 235, Act 160, Imd. Eff. Jun. 7.

38.643 Retirement reserve fund.

Sec. 43. The retirement reserve fund shall be the fund from which shall be paid (1) all annuities because of reserves which have been transferred from the employees' savings fund to the retirement reserve fund, and (2) all pensions because of reserves which have been transferred from the employers' accumulation fund to the retirement reserve fund. If a disability retirant is returned to active service, his annuity reserve at the time of his return shall be transferred from the retirement reserve fund to the employees' savings fund and credited to his individual account therein.

HISTORY: CL 1948, 38.643;—Am. 1955, p. 236, Act 160, Imd. Eff. Jun. 7.

38.644 Casualty reserve fund; disability pensions, payment.

Sec. 44. The casualty reserve fund shall be the fund in which shall be accumulated reserves for the payment of and from which shall be paid all pensions, payable as provided in this act, to disability retirants, to beneficiaries of members and retirants who die from service-connected causes, and to beneficiaries of members who die prior to attainment of age 60 years from nonservice-connected causes.

Contributions by municipalities, computation, payment.

Upon the basis of such tables of experience and regular interest as the board shall from time to time adopt, the actuary shall annually compute, on a terminal funding basis, the contributions necessary to cover pensions payable from the casualty reserve fund. The contributions so determined shall be expressed as a percentage of the respective aggregate payrolls of the said members. The board shall annually certify to the governing body of each participating municipality the contributions to be paid into the casualty reserve fund by the said participating municipality for members in its employ, and each such participating municipality shall pay into the casualty reserve fund the contributions so certified.

HISTORY: CL 1948, 38.644;—Am. 1949, p. 81, Act 75, Eff. Sep. 23;—Am. 1953, p. 310, Act 213, Eff. Oct. 2;—Am. 1955, p. 236, Act 160, Imd. Eff. Jun. 7.

38.644a Income fund; definition, transfers.

Sec. 44a. The income fund is the fund to which shall be credited all interest, dividends and other income from investments of the retirement system, all gifts and bequests received by the system, and all other moneys received by the system the disposition of which is not specifically provided for in this act. There shall be transferred from the income fund all amounts required to credit regular interest to the employees' savings fund, employers accumulation fund, retirement reserve fund and casualty reserve fund as provided in this act. Whenever the board determines that the balance in

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the income fund is more than sufficient to cover current charges to the fund, the excess amount, or any part thereof, may be used to provide contingency reserves or to meet the requirements of the other funds of the retirement system.

HISTORY: Add. 1955, p. 237, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 614, Act 314, Imd. Eff. Aug. 14.

38.644b Expense fund; definition; amounts required from participating municipalities; certification; payment.

Sec. 44b. The expense fund is the fund to which shall be credited all money received from any source to pay the administrative expenses of the retirement system and from which shall be paid all expenses necessary for the proper administration of the retirement system. The board annually may certify to the appropriating authority of each participating municipality the amount of appropriation required to pay its share of the administrative expenses of the retirement system not covered by transfers from the income fund. Each participating municipality shall include the amount so certified in its budget and shall pay same to the retirement system for credit to the expense fund.

HISTORY: Add. 1955, p. 237, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 614, Act 314, Imd. Eff. Aug. 14.

38.644c Retirement system funds; interest credited.

Sec. 44c. At the close of each fiscal year the board shall credit regular interest on the mean balances in the employers accumulation fund, retirement reserve fund and casualty reserve fund. Also at the close of each fiscal year the board shall credit regular interest to each member's individual account in the employees' savings fund, the amount to be computed on the member's individual balance as of the beginning of the fiscal year. The interest so credited shall be charged to the income fund.

HISTORY: Add. 1969, p. 614, Act 314, Imd. Eff. Aug. 14.

38.645 Voluntary retirement; eligibility.

Sec. 45. Any member who either (1) has attained age 60 years and has 10 or more years of credited service, or (2) has attained age 55 years and has 25 or more years of credited service, may retire upon his written application to the board setting forth the first day of a calendar month subsequent to his termination of employment, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, as of which day he desires to be retired. Upon his retirement the board shall grant him the benefits to which he is entitled under the provisions of this retirement system.

HISTORY: CL 1948, 38.645;—Am. 1954, p. 316, Act 130, Eff. Aug. 13;—Am. 1955, p. 237, Act 160, Imd. Eff. Jun. 7;—Am. 1966, p. 147, Act 124, Imd. Eff. Jun. 23;—Am. 1970, p. 636, Act 236, Imd. Eff. Dec. 3.

38.646 Retirement by municipality at age 65.

Sec. 46. After the expiration of a period of 5 years following the date a municipality becomes a participating municipality, any member with 10 or more years of credited service who attains or has attained age 65 years shall be retired by the board upon the written application of the governing body of the participating municipality by which he is employed, and the board shall grant him the benefits to which he is entitled under the provisions of this act: Provided, That upon the written request of the said member, the board may defer his retirement to the end of the participating municipality's fiscal year: Provided further, That in all cases where the charter or applicable basic law of the municipality vests the responsibility for hiring of personnel in an administrative officer, then such officer and not the governing body shall have authority to make the written application for retirement provided for in this section.

HISTORY: CL 1948, 38.646;—Am. 1951, p. 203, Act 163, Imd. Eff. Jun. 6;—Am. 1955, p. 237, Act 160, Imd. Eff. Jun. 7.

38.647 Mandatory retirement at age 70.

Sec. 47. After the expiration of a period of 5 years following the date a municipality becomes a participating municipality, any member, except an elected officer or member of the governing body, employed by the participating municipality who attains or

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has attained age 70 years shall be separated from the service of the participating municipality, and shall be retired by the board forthwith, or on the first day of the calendar month next succeeding that in which the member shall have attained the age of 70 years, and the board shall grant him the benefits to which he is entitled under the provisions of this act. Any elected officer or member of the governing body who attains or has attained the age of 70 years and who continues in the service of the municipality on and after his attainment of age 70 years shall cease to be credited with service performed by him on and after his attainment of age 70 years, any provision in this act to the contrary notwithstanding. His contributions to the employees' savings fund shall cease and his balance in the fund shall be accumulated at regular interest.

HISTORY: CL 1947, 38.647;—Am. 1951, p. 204, Act 163, Imd. Eff. Jun. 6;—Am. 1955, p. 238, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 614, Act 314, Imd. Eff. Aug. 14.

38.647a Separation from service before age 60; continuation of membership.

Sec. 47a. Any member who leaves the employ of a participating municipality prior to his attainment of age 60 years, for any reason except his retirement or his death, and who has 10 or more years of credited service in force, shall be retired the first day of the calendar month which is at least 30 days subsequent to both (i) the date he files his written application for retirement with the board, and (ii) his attainment of age 59 years and 11 months. The application for retirement may not be filed more than 90 days prior to his attainment of age 60 years. Upon his retirement he shall receive a retirement allowance provided in section 47c according to the applicable benefit program in effect at the time he left the employ of the participating municipality. If he withdraws all or any part of his accumulated contributions from the employees' savings fund he shall thereupon forfeit his right to a retirement allowance. Except as otherwise provided by the retirement system, such a member shall not receive service credit for the period of his absence from the employ of a participating municipality. Until his retirement his accumulated contributions standing to his credit in the employees' savings fund shall be accumulated at regular interest.

HISTORY: Add. 1955, p. 238, Act 160, Imd. Eff. Jun. 7;—Am. 1966, p. 147, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 614, Act 314, Imd. Eff. Aug. 14;—Am. 1970, p. 636, Act 236, Imd. Eff. Dec. 3.

38.647b Members transferred to state employment; credited service; retirement benefits.

Sec. 47b. In the event a member of the retirement system who, while employed by a participating municipality, is transferred to the employ of the state or a governmental unit of the state of Michigan by reason of a function or functions of his participating municipality being transferred to the state or a governmental unit of the state of Michigan, the member so transferred, who does not withdraw his accumulated contributions from the retirement system, shall remain a member of the retirement system and be entitled to the retirement and death benefits of the retirement system so long as he remains in the employ of the state or governmental unit to which his employment was transferred, subject to the following conditions:

(a) His credited service in force at the time of his transfer of employment plus the credited service he acquires as a member of the retirement system, if any, of the state or governmental unit to which his employment was transferred equals or exceeds the minimum credited service required for retirement or death benefits of the retirement system.

(b) His retirement benefit, or any death benefit payable on account of his death shall be determined on the basis of his credited service, final average compensation, and the retirement system provision in effect at the time his employment was transferred.

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(c) His retirement benefit shall begin the first day of the second calendar month next following the month he files his written application to the board but in no case prior to his attainment of any age requirement for retirement nor prior to the date he terminates employment with the state or governmental unit to which his employment was transferred.

HISTORY: Add. 1966, p. 148, Act 124, Imd. Eff. Jun. 23.

38.647c Straight life retirement allowance; computation; options.

Sec. 47c. Upon a member's retirement, as provided in this act, he shall receive a straight life retirement allowance computed in accordance with the applicable benefit program or programs elected by his participating municipality. Prior to the date his retirement becomes effective, but not thereafter, he may elect to receive his retirement allowance under an option provided in subsection (a) of section 51 in lieu of a straight life retirement allowance.

HISTORY: Add. 1969, p. 615, Act 314, Imd. Eff. Aug. 14.

38.647d Straight life or option V death benefits; computation, recipient.

Sec. 47d. If a retirant dies before he has been paid in straight life or option V retirement allowance payments an aggregate amount equal to his accumulated contributions credited to his account in the employees' savings fund at the time of his retirement, the difference between his accumulated contributions and the aggregate amount of retirement allowance payments made shall be paid to such persons as he shall have nominated by written designation duly executed and filed with the board. If there is no designated person surviving the retirant the difference shall be paid to his legal representative. In no case shall any benefits be paid under this section on account of the death of a retirant who elected option I, option II, option III or option IV provided in subsection (a) of section 51.

HISTORY: Add. 1969, p. 615, Act 314, Imd. Eff. Aug. 14.

38.647e Option II or III death benefits; computation, recipient.

Sec. 47e. If the survivor of (1) a retirant who elected option II or option III provided in subsection (a) of section 51, and (2) the person he nominated by written designation duly executed and filed with the board pursuant to option II or option III, dies before there has been paid in option II or option III retirement allowance payments an aggregate amount equal to the retirant's accumulated contributions credited to his account in the employees' savings fund at the time of his retirement, the difference between his accumulated contributions and the aggregate amount of retirement allowance payments made shall be paid to the persons the retirant shall have nominated by written designation duly executed and filed with the board. If there is no designated person surviving the difference shall be paid to the legal representative of the survivor of the retirant and the person he nominated pursuant to option II or option III. In no case shall any benefits be paid under this section if the retirant was receiving a straight life retirement allowance or if he elected option I or option IV, or option V provided in subsection (a) of section 51.

HISTORY: Add. 1969, p. 615, Act 314, Imd. Eff. Aug. 14.

38.647f Retirement before age 60; retirement allowance computation; waiver.

Sec. 47f. If a member retires prior to his attainment of age 60 years, as provided in section 45, the pension portion or portions of his retirement allowance shall be reduced 1/2 of 1% multiplied by the number of complete months the effective date of

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his retirement precedes the date he would attain age 60 years. A participating municipality may elect to have the application of this section waived. The election shall be made in the same manner in all respects as an election pursuant to section 6b.

HISTORY: Add. 1969, p. 616, Act 314, Imd. Eff. Aug. 14.

38.648 Benefit program B retirement allowance.

Sec. 48. A benefit program B retirement allowance shall consist of the benefits set forth in this section. The pension portions of the retirement allowance, subsections (b), (c), (d), (e) and (f) of this section, shall be subject to section 47f:

(a) An annuity which shall be the actuarial equivalent of the member's accumulated contributions standing to his credit in the employees' savings fund at the time of his retirement.

(b) A basic pension of $120.00 per annum. No retirant shall receive more than 1 basic pension. A member's basic pension is an obligation of his last participating municipality while covered by benefit program B.

(c) A membership service pension equal to 0.54% of the member's final average compensation multiplied by the number of years, and fraction of a year, of membership service credited to his service account.

(d) A prior service pension equal to 1.13% of the member's final average compensation multiplied by the number of years, and fraction of a year, of prior service credited to his service account, not to exceed 35 years. A prior service pension shall not exceed $1,800.00 per annum.

(e) To a covered member who retires prior to his attainment of age 65 years, a supplemental pension, payable to his attainment of age 65 years, equal to 0.30% of his final average compensation multiplied by the number of years, and fraction of a year, of his total credited service. Upon his attainment of age 65 years, or to a covered member who retires on or after his attainment of age 65 years, a supplemental pension equal to the excess, if any, of (1) 0.30% of his final average compensation multiplied by the number of years, and fraction of a year, of his total credited service, over (2) his social security primary insurance amount estimated on the later of the effective date of his retirement and the date he attains age 65 years.

(f) To a noncovered member only, a supplemental pension equal to 0.30% of his final average compensation multiplied by the number of years, and fraction of a year, of his total credited service.

HISTORY: CL 1948, 38.648;—Am. 1953, p. 310, Act 213, Eff. Oct. 2;—Am. 1954, p. 316, Act 130, Eff. Aug. 13;—Am. 1955, p. 238, Act 160, Imd. Eff. Jun. 7;—Am. 1959, p. 313, Act 213, Eff. Mar. 19, 1960;—Am. 1966, p. 148, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 616, Act 314, Imd. Eff. Aug. 14.

38.648a Benefit program B-1 retirement allowance.

Sec. 48a. A benefit program B-1 retirement allowance shall consist of the benefits set forth in this section. The pension portions of the retirement allowance, subsections (b), (c) and (d) of this section, shall be subject to section 47f:

(a) An annuity which shall be the actuarial equivalent of the member's accumulated contributions standing to his credit in the employees' savings fund at the time of his retirement.

(b) A pension which when added to the member's annuity will provide a retirement allowance equal to 1.4% of his final average compensation multiplied by the number of years, and fraction of a year, of his total credited service.

(c) To a covered member who retires prior to his attainment of age 65 years, a supplemental pension, payable to his attainment of age 65 years, equal to 0.30% of his final average compensation multiplied by the number of years, and fraction of a year, of his total credited service. Upon his attainment of age 65 years, or to a covered member who retires on or after his attainment of age 65 years, a supplemental pension equal to

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the excess, if any, of (1) 0.30% of his final average compensation multiplied by the number of years, and fraction of a year, of his total credited service, over (2) of his social security primary insurance amount estimated on the later of the effective date of his retirement and the date he attains age 65 years.

(d) To a noncovered member, a supplemental pension equal to 0.30% of his final average compensation multiplied by the number of years, and fraction of a year, of his total credited service.

(e) In no case shall the pension provided for a member who was formerly covered under benefit program B and became covered under benefit program B-1 by action of his participating municipality be less than the pension benefits provided under benefit program B.

HISTORY: Add. 1966, p. 149, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 616, Act 314, Imd. Eff. Aug. 14.

38.649 Retirement allowance; suspension due to employment by participating municipality.

Sec. 49. Except as otherwise provided by the retirement system, if a retirant becomes employed by a participating municipality, payment of his retirement allowance shall be suspended during the period of such employment, and he shall not again become a member of the retirant system. Upon termination of such employment, payment of his retirement allowance shall be resumed without change due to such employment.

HISTORY: Add. 1966, p. 150, Act 124, Imd. Eff. Jun. 23.

Former section 38.649 (Sec. 49, Act 135, 1945, p. 150, Imd. Eff. May 3, as amended) was repealed by P.A. 1955, 160, p. 246, Imd. Eff. Jun. 7. It provided for deferred service retirement allowance.

38.650 Benefit program C retirement allowance.

Sec. 50. A benefit program C retirement allowance shall consist of the benefits set forth in this section. The pension portions of the retirement allowance, subsections (b) and (c) of this section, shall be subject to section 47f:

(a) An annuity which shall be the actuarial equivalent of the member's accumulated contributions standing to his credit in the employees' savings fund at the time of his retirement.

(b) A membership service pension which when added to the member's annuity will provide a retirement allowance equal to the number of years, and fraction of a year, of membership service credited to his service account multiplied by the sum of 1% of the first $4,200.00 of his final average compensation plus 1.5% of the portion, if any, of his final average compensation which is in excess of $4,200.00.

(c) A prior service pension equal to the number of years, and fraction of a year, of prior service credited to the member's service account multiplied by the sum of 1.0% of the first $4,200.00 of his final average compensation plus 1.5% of the portion, if any of his final average compensation which is in excess of $4,200.00. A prior service pension shall not exceed $1,800.00 per annum.

HISTORY: CL 1948, 38.650;—Am. 1949, p. 81, Act 75, Eff. Sep. 23;—Am. 1953, p. 311, Act 213, Eff. Oct. 2;—Am. 1955, p. 239, Act 160, Imd. Eff. Jun. 7;—Am. 1957, p. 364, Act 273, Eff. Sep. 27;—Am. 1966, p. 150, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 617, Act 314, Imd. Eff. Aug. 14.

38.650a Benefit program C-1 retirement allowance.

Sec. 50a. A benefit program C-1 retirement allowance shall consist of the benefits set forth in this section. The pension portion of the retirement allowance, subsection (b) of this section, shall be subject to section 47f:

(a) An annuity which shall be the actuarial equivalent of the member's accumulated contributions standing to his credit in the employees' savings fund at the time of his retirement.

(b) A pension which when added to the member's annuity will provide a retirement allowance equal to the number of years, and fraction of a year, of his total credited

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service multiplied by the sum of 1.2% of the first $4,200.00 of his final average compensation plus 1.7% of the portion, if any, of his final average compensation which is in excess of $4,200.00.

HISTORY: Add. 1966, p. 151, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 617, Act 314, Imd. Eff. Aug. 14.

38.651 Optional retirement allowances.

Sec. 51. (a) Prior to the date his retirement becomes effective, but not thereafter, a member may nominate a beneficiary and elect to receive a reduced retirement allowance in accordance with the provisions of option I, II, III or IV set forth below, in lieu of his straight life retirement allowance; or, according to such rules as the board shall from time to time adopt, a covered member may elect to receive his straight life retirement allowance in accordance with the provisions of option V. The value of each such optional form of retirement allowance shall be the actuarial equivalent, computed as of the effective date of the member's retirement, of the member's straight life retirement allowance.

Option I. Under option I a retirant shall receive a reduced cash refund life annuity plus a straight life pension. In the event he dies prior to the date he has been paid an aggregate amount of reduced annuity payments equal to his accumulated contributions standing to his credit in the employees' savings fund at the time of his retirement, the difference between his accumulated contributions and the aggregate amount of reduced annuity payments shall be paid to the person or persons he shall have nominated by written designation duly executed and filed with the board. If there is no designated person or persons surviving the retirant, the difference shall be paid to his legal representative.

Option II. Under option II a retirant shall receive a reduced retirement allowance with the provisions that upon his death the reduced retirement allowance shall be continued throughout the life of and paid to the person, having an insurable interest in his life, he shall have nominated by written designation duly executed and filed with the board at the time he elected option II.

Option III. Under option III a retirant shall receive a reduced retirement allowance with the provision that upon his death ½ the reduced retirement allowance shall be continued throughout the life of and paid to the person, having an insurable interest in his life, he shall have nominated by written designation duly executed and filed with the board at the time he elected option III.

Option IV. Under option IV a retirant shall receive a reduced retirement allowance with the provision that upon his death, prior to the date payments of his retirement allowance have been made for the period certain selected by him at the time he elected option IV, payment of his reduced retirement allowance shall be continued for the remainder of such period certain to the person or persons he shall have nominated by written designation duly executed and filed with the board. If there is no designated person surviving, the actuarial equivalent value of his reduced retirement allowance for the remainder of the period shall be paid to the legal representative of the survivor of the retirant and the last surviving person nominated by him in accordance with the provisions of this option. The period certain shall be 60 months, 120 months, 180 months or 240 months, according to the selection made by the retirant at the time he elected option IV.

Option V. Under option V a retirant shall receive an increased retirement allowance payable to his attainment of the maximum age specified in the rules adopted by the board and a reduced retirement allowance payable thereafter. His increased retirement allowance payable to his attainment of the maximum age shall approximate the sum of his reduced retirement allowance payable after his attainment of the maximum age and his estimated social security primary insurance amount.

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(b) Any member who continues in the employ of a participating municipality after the date he either (1) acquires 25 or more years of credited service, or (2) attains age 60 years and acquires 10 or more years of credited service, at any time prior to the date his retirement becomes effective, may elect option II provided in subsection (a) of this section and nominate a beneficiary whom the board finds to be dependent upon the member for at least 50% of his support due to lack of financial means. Prior to the date his retirement becomes effective, a member may revoke his election of option II and nomination of beneficiary and he may again, prior to the date his retirement becomes effective, elect the option II and nominate a beneficiary as provided in this subsection. Upon the death of a member who has an option II election and nomination of beneficiary in force, his beneficiary, if living and found by the board to be dependent upon the member for at least 50% of his support due to lack of financial means, shall immediately receive a retirement allowance computed according to the benefit program or programs applicable to the member, exclusive of section 47f, in the same manner in all respects as if the member had retired the first day of the calendar month preceding the date of his death, notwithstanding that he might not have satisfied the applicable age and service requirements for retirement. No retirement allowance shall be paid under this subsection if any benefits are paid or will become payable under any other provision of this act on account of the member's death.

(c) If a member who either (1) has 15 or more years of credited service, or (2) is age 60 years or older and has 10 or more years of credited service, and does not have an option II election and nomination of beneficiary in force as provided in subsection (a) or (b), (1) dies while in the employ of a participating municipality, or (2) dies subsequent to the date he files his written application for retirement but prior to the date his retirement becomes effective, and either (1) leaves a spouse, or (2) does not leave a spouse or his spouse subsequently dies and there survives an unmarried child or children of the deceased member who is under the age of 21 years, the spouse shall receive, or the children shall receive an equal share of, a retirement allowance equal to a percent of a retirement allowance computed according to the benefit program or programs applicable to the member, exclusive of section 47f, in the same manner in all respects as if the member had retired the first day of the calendar month preceding the date of his death, notwithstanding that he might not have satisfied the applicable age and service requirements for retirement. In the case of a spouse, the percent shall be 75% reduced by 1% for each full year in excess of 5 years by which the age of the deceased member on the date of his death exceeded the age of his spouse on that date. In no case shall the percent be less than 50%. The percent in the case of a child or children shall be 50%. In no case shall the retirement allowance paid be less than 15% of the deceased member's final average compensation. The retirement allowance payable a spouse shall terminate upon the death of the spouse. The share of a retirement allowance payable a child shall terminate upon the child's attainment of age 21 years, his marriage or his death, whichever occurs first, and the retirement allowance shall be redistributed among the remaining eligible children. If upon termination of all retirement allowance payments under this subsection the aggregate amount of retirement allowance payments made is less than the accumulated contributions credited to the deceased member's account in the employees' savings fund at the time of his death, the difference between his accumulated contributions and the aggregate amount of retirement allowance payments made shall be paid in accordance with subsection (a) of section 57. No retirement allowance shall be paid under this subsection to a spouse or child who is being paid or will be paid a retirement allowance or other benefit under another provision of this act on account of the member's death.

HISTORY: CL 1948, 38.651;—Am. 1949, p. 81, Act 75, Eff. Sep. 23;—Am. 1953, p. 311, Act 213, Eff. Oct. 2;—Am. 1954, p. 317, Act 130, Eff. Aug. 13;—Am. 1955, p. 240, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 617, Act 314, Imd. Eff. Aug. 14;—Am. 1970, p. 636, Act 236, Imd. Eff. Dec. 3.

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38.652 Disability retirement; service connected disability; retirement allowance; computation, commencement, source of funds.

Sec. 52. (a) A member with 10 or more years of total credited service, whom the board finds to be totally and permanently incapacitated for duty while in the employ of the participating municipality, may be retired by the board upon the application of the member, or his participating municipality if, after a medical examination of the member made by or under the direction of the medical director, the medical director certifies and the board concurs in his certification that (1) the member is mentally or physically totally incapacitated for duty in the employ of the participating municipality, (2) such incapacity is likely to be permanent, and (3) the member should be retired. The 10-year total credited service requirement shall be waived if the board finds that the member's total and permanent incapacity is the natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty in the employ of the participating municipality.

(b) Subject to sections 55, 56 and 60, a member who is retired on account of disability as provided in subsection (a) shall receive a retirement allowance in accordance with section 47c. If the member's total credited service is less than 10 years the amount of his retirement allowance shall be computed as if he had 10 years of total credited service. The retirement allowance shall not be subject to section 47f and shall begin as of the first day of the calendar month following the more recent of (i) the date of the member's disability, the date which is 6 months prior to the date application for his disability retirement was filed with the board, and (ii) the date his name last appeared on a payroll of a participating municipality. The pension portion of the retirement allowance shall be paid from the casualty reserve fund until the end of the month in which the retirant attains age 60 years. Thereafter the pension portion of the retirement allowance shall be paid from the retirement reserve fund or the employer's accumulation fund of his last participating municipality, as for service retirement.

HISTORY: CL 1948, 38.652;—Am. 1955, p. 241, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 619, Act 314, Imd. Eff. Aug. 14;—Am. 1970, p. 638, Act 236, Imd. Eff. Dec. 3.

38.653 Repealed. 1955, p. 246, Act 160, Imd. Eff. Jun. 7.

Section provided retirement benefits for disability occurring after age 60.

38.654, 38.654a Repealed. 1969, p. 622, Act 314, Imd. Eff. Aug. 14.

Sections provided disability allowances for plan A and plan B members of the retirement system.

38.655 Disability retirant; medical examinations required, termination of allowance.

Sec. 55. At least once each year during the first 5 years following the disability retirement of a member pursuant to section 52 and at least once in each 3-year period thereafter the board may require any disability retirant who has not attained age 60 years to undergo a medical examination, to be made by or under the direction of the medical director or a physician designated by the medical director to determine if disability, as required for disability retirement pursuant to section 52, still exists. If a disability retirant refuses to submit to such medical examination, his retirement allowance may be suspended by the board until his withdrawal of such refusal. If such refusal continues for 1 year all his rights in and to his retirement allowance may be revoked by the board. If upon such medical examination of a disability retirant, the medical director certifies to the board that disability required for retirement pursuant to section 52 no longer exists, and the board concurs, the retirement allowance shall be terminated.

HISTORY: CL 1948, 38.655;—Am. 1955, p. 243, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 619, Act 314, Imd. Eff. Aug. 14.

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38.656 Disability retirant; return to service; service credits.

Sec. 56. (a) If a former disability retirant returns to the employ of the participating municipality from which he retired, within 5 years after the date his retirement allowance was terminated as provided in section 55, he shall again become a member of the retirement system. His credited service in force at the time of his disability retirement shall be restored to his credit upon the return by him of all amounts he may have previously withdrawn from and not returned to the employees' savings fund, together with interest thereon from the date of withdrawal to the date of repayment at such rate of interest as the board shall from time to time determine.

(b) If a former disability retirant does not return to the employ of the participating municipality from which he retired, as provided in subsection (a), he shall be entitled to a deferred retirement allowance provided in section 47a, notwithstanding his failure to meet the requirements as to age and service in section 47a.

HISTORY: CL 1948, 38.656;—Am. 1955, p. 243, Act 160, Imd. Eff. Jun. 7;—Am. 1966, p. 152, Act 124, Imd. Eff. Jun. 23;—Am. 1969, p. 620, Act 314, Imd. Eff. Aug. 14.

38.657 Refund of contributions on separation from service; disposition of unclaimed funds.

Sec. 57. Should any member cease to be a municipal employee before becoming eligible to receive a pension as provided in this act, for reasons other than becoming a retirant or his death, he shall, upon his application, be paid his accumulated contributions standing to his credit in the employees' savings fund. No such refund shall be made in less than 90 days after his separation nor less than 30 days after filing his application with the board, whichever is the later date, unless the member has attained age 70 years. In the event such member transfers his employment to another participating municipality within 90 days after his said separation from service, his accumulated contributions standing to his credit in the employees' savings fund shall remain in the said fund to the credit of the said member, unless he requests a refund of his said accumulated contributions. No refund shall be made to a member who has attained the age of 70 years in less than 30 days from the first day of the calendar month next succeeding that in which the member shall have attained the age of 70 years. Any amounts remaining unclaimed in the employees' savings fund shall, after a period of 4 years, be transferred to the income fund.

Death of member; payment of contributions.

(a) Upon the death of a member before his retirement becomes effective, his accumulated contributions standing to his credit in the employees' savings fund at the time of his death shall be paid, except as otherwise provided in this act, to such person or persons as he shall have nominated by written designation duly executed and filed with the board. If there be no such designated person or persons surviving the said member his accumulated contributions shall be paid to his legal representative.

Board may withhold payment.

(b) The board may, in its discretion, withhold payment of accumulated contributions for a period not more than 3 years after a member has ceased to be a municipal employee.

Return of withdrawn contributions.

(c) Should a member who has withdrawn his accumulated contributions re-enter the employ of a participating municipality, he may, according to such rules and regulations as the board may from time to time adopt, return to the employees' savings fund the amount, or any part thereof, previously withdrawn by him.

HISTORY: Am. 1947, p. 439, Act 274, Eff. Oct. 11;—CL 1948, 38.657;—Am. 1949, p. 83, Act 75, Eff. Sep. 23;—Am. 1953, p. 313, Act 213, Eff. Oct. 2;—Am. 1955, p. 243, Act 160, Imd. Eff. Jun. 7;—Am. 1959, p. 315, Act 213, Eff. Mar. 19, 1960.

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38.658 Death resulting from service connected injury or disease; benefits, computation; widow and dependent child, definitions.

Sec. 58. In the event (1) a member dies as the result of a personal injury or disease arising out of and in the course of his employment by a participating municipality, or (2) a disability retirant dies within a period of 5 years from his disability retirement as the result of the same injury or disease for which he was retired, and in either case his death or injury is found by the board to have occured [sic] as the natural and proximate result of causes arising out of and in the course of his actual performance of duty in the employ of a participating municipality, the applicable benefits provided in subsections (a), (b) and (c) of this section shall be paid, subject to section 60.

(a) His widow shall receive a retirement allowance of 25% of the deceased member's final average compensation. If the deceased member had 15 or more years of total credited service at the time of his death, his widow may elect to receive her retirement allowance in accordance with subsection (c) of section 51 in lieu of the retirement allowance provided in this subsection. As used in this subsection, the term widow means the same person to whom the deceased member was married at both the time his last employment terminated by a participating municipality and at the time of his death.

(b) His dependent child or children under the age of 21 years shall each receive a retirement allowance of 10% of the deceased member's final average compensation, except that while there are 3 or more dependent children each child shall receive a retirement allowance of an equal share of 25% of such member's final average compensation. A child shall be considered a dependent child for the purposes of this subsection until his marriage, attainment of age 21 years or death, whichever occurs first. The age 21 years restriction shall be extended in the case of a child who has been deemed physically or mentally incompetent by a court of competent jurisdiction, or by the board, for as long as such incompetency exists. Upon a child ceasing to be a dependent child, his retirement allowance shall terminate and there shall be a redetermination of the amount payable to any remaining dependent children. If no benefits are payable or will become payable pursuant to subsections (b) or (c) of section 51, or subsection (a) of this section, the amount of retirement allowance payable each dependent child shall be double the amount otherwise payable.

(c) If no benefits are payable or will become payable pursuant to subsections (b) or (c) of section 51, or subsections (a) or (b) of this section, each dependent parent of the member shall receive a retirement allowance of 20% of the member's final average compensation. As used in this subsection, a dependent parent means a parent whom the board finds to have been dependent upon the member for at least 50% of his support due to lack of financial means.

(d) The pension portions of the retirement allowances provided in this section shall be paid from the casualty reserve fund.

HISTORY: CL 1948, 38.658;—Am. 1953, p. 314, Act 213, Eff. Oct. 2;—Am. 1954, p. 319, Act 130, Eff. Aug. 13;—Am. 1955, p. 244, Act 160, Imd. Eff. Jun. 7;—Am. 1969, p. 620, Act 314, Imd. Eff. Aug. 14.

38.659 Repealed. 1955, p. 246, Act 160, Imd. Eff. Jun. 7.

Section created an income fund for retirement benefits.

38.660 Disability or survivors' allowances; limitations.

Sec. 60. If a retirement allowance is paid or will become payable pursuant to the provisions of sections 52 or 58, then the total amount of retirement allowances payable, before giving effect to any option election provided in subsection (a) of section 51, shall not exceed the difference between a percent of the disabled or deceased member's final average compensation and the total of the following amounts:

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(1) Workmen's compensation on account of such disability or death. Payment of workmen's compensation on account of a disability or death shall not prohibit payment of any retirement allowance on account of the same disability or death but shall reduce the amount of retirement allowance to the extent provided in this section. Workmen's compensation shall be converted to an annual basis, for the purposes of this section, in accordance with such rules as the board shall adopt.

(2) Remuneration, if any, received by such retirant for personal services rendered in any gainful occupation.

(3) Benefits, if any, from any program of salary continuance, sickness and accident insurance, disability insurance or similar coverage, financed in whole or in part by a participating municipality.

(4) Benefits, if any, from the federal social security old-age, survivors, disability and health insurance program on account of such disability or death.

(5) Such percent shall be 90% increased by 2% for each full year elapsed since the date of the member's disability retirement or death.

HISTORY: CL 1948, 38.660;—Am. 1951, p. 204, Act 163, Imd. Eff. Jun. 6;—Am. 1955, p. 245, Act 160, Imd. Eff. Jun. 7;—Am. 1957, p. 366, Act 273, Eff. Sep. 27;—Am. 1969, p. 621, Act 314, Imd. Eff. Aug. 14.

38.661 Retirement system funds; investment.

Sec. 61. Investment of funds. The members of the board shall be the trustees of the several funds created by this act and the board shall have full power to invest and reinvest such funds subject to all terms, conditions, limitations and restrictions imposed by the laws of the state of Michigan upon life insurance companies in the making and disposing of their investments. The board shall have full power to hold, sell, assign, transfer and dispose of any of the securities and investments in which any of the funds created herein shall have been invested as well as the proceeds of said investments and any moneys belonging to the retirement system.

(a) Bank deposits. The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by such treasurer, and all interest earned by such portion of the said retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him and placed to the credit of the income fund of the retirement system.

(b) Maximum cash on deposit—exclusive use of funds of retirement system. There shall be kept on deposit available cash, not exceeding 10 per centum of the total assets of the retirement system. All funds of the retirement system shall be held for the sole purpose of meeting disbursements for annuities, pensions, any other benefits, and any other payments authorized by the provisions of this act and shall be used for no other purpose. The description of the various funds of the retirement system shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of moneys in the various funds of the retirement system.

HISTORY: CL 1948, 38.661.

38.662 Retirement system funds; employee interest in investments prohibited.

Sec. 62. No employee shall gain from investments. Except as provided herein, no member or employee of the board shall have any interest direct or indirect in the gains or profits of any investments made by the board, nor as such directly or indirectly receive any pay or emolument for his services. No member or other person connected with the board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of the funds or deposits of the retirement system, or in any manner use the same, except to make such current and necessary payments as are authorized

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by the board; nor shall any member or employee of the board become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed of the board.

HISTORY: CL 1948, 38.662.

38.663 Withdrawal of municipality from membership; refunds.

Sec. 63. In the event any participating municipality elects to withdraw from the retirement system, as provided in this act, the balance in the employer's accumulation fund standing to the credit of the said participating municipality shall be first applied to the establishment of full reserves, as computed by the actuary upon the basis of such mortality and other tables of experience and regular interest as the board shall adopt, to cover pensions, and benefits in lieu of pensions, granted prior to the said municipality's withdrawal from membership, to retirants and beneficiaries on account of service rendered the said municipality. Any remaining balance in the said fund shall be treated in such manner as the board and the governing body of the said municipality shall by agreement determine. The balances in the employees' savings fund standing to the credit of members who are employed by the said municipality shall be returned to the said members in such manner, either in single sums or annuities actuarially equivalent to the said members' balances in the employees' savings fund, as shall be determined by resolution adopted by the board.

HISTORY: CL 1948, 38.663;—Am. 1955, p. 245, Act 160, Imd. Eff. Jun. 7.

38.664 Retirement allowances; assignments prohibited, exceptions; not subject to legal process.

Sec. 64. The right of any person to an annuity, a pension, a retirement allowance, to the return of accumulated contributions, the annuity, the pension, or the retirement allowance itself, any optional benefit, any other right accrued or accruing to any member or beneficiary under the provisions of this act, and the moneys belonging to the retirement system shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy, or insolvency law, or any other process of law whatsoever except as is specifically provided by the provisions of this act: Provided, That the board shall have the right of set-off for any claim arising by fraud of a number [sic], retirant or beneficiary.

Notwithstanding any provision of this act to the contrary the accumulated contributions of the members of any police or fire department of any city, village or municipality may be assigned and transferred to the funds of the retirement system of the city, village or municipality which has come under the provisions of Act No. 345 of the Public Acts of 1937, as amended, being sections 38.551 to 38.562 of the Compiled Laws of 1948, in the manner required by that act. Thereafter the accumulated contributions so assigned and transferred shall be administered in the manner provided by law and the members of the police or fire department shall be entitled to the pension and other benefits payable under said act. The transfer of the accumulated contributions shall not be made except upon the written authorization of the members of the police or fire department who elect to authorize the transfer and come under the provisions of the act.

HISTORY: CL 1948, 38.664;—Am. 1955, p. 245, Act 160, Imd. Eff. Jun. 7;—Am. 1959, p. 309, Act 207, Eff. Mar. 19, 1960.

38.665 Correction of errors.

Sec. 65. Should any change or error in the records result in any member, retirant, or beneficiary receiving from the retirement system more or less than he would have

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been entitled to receive had the records been correct, the board shall correct such error and, as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member, retirant, or beneficiary was correctly entitled shall be paid.

HISTORY: CL 1948, 38.665;—Am. 1955, p. 246, Act 160, Imd. Eff. Jun. 7.

38.666 False statements, penalty.

Sec. 66. Penalty for false statements. Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a misdemeanor and shall upon conviction thereof be fined not less than $10.00 nor more than $100.00.

HISTORY: CL 1948, 38.666.

38.667 Federal social security old-age and survivors' insurance; contributions; transfer of funds for retroactive coverage.

Sec. 67. In the event a participating municipality, subsequent to the date the said municipality became a participating municipality, covers its eligible employees under the federal social security old-age and survivors insurance program, as amended, and establishes as the effective date of the said coverage a date prior to the date of the said municipality's agreement with the social security administration, the obligation for the payment of the social security taxes retroactive to the effective date of coverage shall be assumed by the said participating municipality.

(a) For each employee of the said participating municipality who is a member of the retirement system, the amount contributed by him in excess of the amount required under the provisions of section 41b, for the period of time between the effective date of the social security coverage and the date of the agreement with the social security administration, shall be deducted from the said member's individual balance in the employees' savings fund and paid to the said participating municipality, and shall be used by the said participating municipality to apply upon the said member's social security taxes. In the event the amount contributed by the said member is not sufficient to cover the amount required under the provisions of section 41b, the said participating municipality shall promptly collect from the said member and pay to the retirement system the amount of such insufficiency. In addition to the member's contributions to be returned, as hereinbefore provided, there shall be returned to the said member any amount he may have contributed on the portion of his annual salary in excess of $3,600.00 prior to the said effective date of social security coverage: Provided, The said additional contributions have not been previously returned to him.

(b) For the said participating municipality's employees who are members of the retirement system, an amount equal to the amount paid to the participating municipality as provided in subsection (a) of this section shall be deducted from the said participating municipality's balance in the employers' accumulation fund and paid to the said participating municipality, and shall be used by the said participating municipality to apply upon its social security taxes.

HISTORY: Add. 1955, p. 246, Act 160, Imd. Eff. Jun. 7.

Original section 67 of Act 135 of 1945, p. 150, was a saving clause section and was repealed by Act 170 of 1947.

38.668 Benefit program E; election, computation of retirement allowance; definition.

Sec. 68. Benefit program E. Under benefit program E, if the municipalities either by a 3/5 majority vote of its governing body or by a majority vote of the qualified electors of such municipality shall specifically elect to come under this section, the amount of each retirement allowance which became effective on or before the date elected in accordance with section 6b as the effective date of the participating municipality's

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change in coverage shall be redetermined the next following January first, and such redetermined amount shall be payable thereafter. Such redetermined amount shall be the amount of the retirement allowance otherwise payable multiplied by the following percent: 100.0%, plus 2.0% for each full year, excluding any fraction of a year in the period from the date the retirement allowance became effective to the January first as of which the redetermination is being made.

As used in this section "the amount of retirement allowance otherwise payable" means the amount of retirement allowance which would be payable without regard to the provisions of this section.

HISTORY: Add. 1969, p. 621, Act 314, Imd. Eff. Aug. 14.

38.668a Benefit program E-1; election, computation of retirement allowance; definitions.

Sec. 68a. Benefit program E-1. Under benefit program E-1, if the municipalities either by 3/5 majority vote of its governing body or by a majority vote of the qualified electors of such municipality shall specifically elect to come under this section, the amount of each retirement allowance which became effective on or before the date elected in accordance with section 6b as the effective date of the participating municipality's change in coverage shall be redetermined each January first beginning with the January first which is at least 12 full months after such effective date of change in coverage, and such redetermined amount shall be payable for the ensuing year. Subject to the maximum stated in the next sentence, such redetermined amount shall be the amount of the retirement allowance otherwise payable multiplied by the following percent: 100.0%, plus 2.5% for each full year, excluding any fraction of a year in the period from such effective date of change in coverage to the January first as of which the redetermination is being made. In no event shall such redetermined amount be less than the amount of retirement allowance otherwise payable nor more than the amount of retirement allowance otherwise payable multiplied by the following fraction: The numerator shall be the average of the consumer price index for the 12 calendar months ending with the month of September immediately preceding such January first, but in no event less than the denominator below, and; the denominator shall be the average of the consumer price index for the 12 calendar months ending with the month of September in the calendar year in which such effective date of change in coverage falls.

As used in this section "the amount of retirement allowance otherwise payable" means the amount of retirement allowance which would be payable without regard to the provisions of this section.

As used in this section "consumer price index" means the consumer price index for urban wage earners and clerical workers as determined by the U.S. department of labor and as it may be from time to time amended.

HISTORY: Add. 1969, p. 621, Act 314, Imd. Eff. Aug. 14.

38.668b Benefit program E-2; election, computation of retirement allowance; definitions.

Sec. 68b. Benefit program E-2. Under benefit program E-2, if the municipalities either by a 3/5 majority vote of its governing body or by a majority vote of the qualified electors of such municipality shall specifically elect to come under this section, the amount of each retirement allowance becoming effective on or after the date elected in accordance with section 6b as the effective date of the participating municipality's change in coverage shall be redetermined each January first beginning with the January first which is at least 12 full months after the date the retirement allowance becomes effective, and such redetermined amount shall be payable for the ensuing year. Subject to the maximum stated in the next sentence, such redetermined amount shall

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be the amount of the retirement allowance otherwise payable multiplied by the following percent: 100.0%, plus 2.5% for each full year, excluding any fraction of a year in the period from the date the retirement allowance becomes effective to the January first as of which the redetermination is being made. In no event shall such redetermined amount be less than the amount of retirement allowance otherwise payable nor more than the amount of retirement allowance otherwise payable multiplied by the following fraction: The numerator shall be the average of the consumer price index for the 12 calendar months ending with the month of September immediately preceding such January first, but in no event less than the denominator below, and; the denominator shall be the average of the consumer price index for the 12 calendar months ending with the month of September in the calendar year in which the retirement allowance becomes effective.

As used in this section "the amount of retirement allowance otherwise payable" means the amount of retirement allowance which would be payable without regard to the provisions of this section.

As used in this section "consumer price index" means the consumer price index for urban wage earners and clerical workers as determined by the U.S. department of labor and as it may be from time to time amended.

HISTORY: Add. 1969, p. 622, Act 314, Imd. Eff. Aug. 14.

Act 137, 1967, p. 164; Eff. Nov. 2.

AN ACT to authorize 2 or more cities, townships, villages or county road commissions or counties to enter into agreements relative to establishing, combining and financing retirement systems.

The People of the State of Michigan enact:

38.691 Local retirement systems; establishment and combination.

Sec. 1. Any 2 or more cities, townships, villages or counties or county road commissions or any combination thereof may enter into an agreement to establish, combine and finance retirement systems for their respective employees and officials, elected or appointed.

HISTORY: New 1967, p. 164, Act 137, Eff. Nov. 2.

Act 339, 1927, p. 816; Imd. Eff. Jun. 1.

AN ACT to authorize the establishment of a system of retiring allowances for employes of public libraries now existing or which may hereafter be established in incorporated cities of 250,000 population or more.

The People of the State of Michigan enact:

38.701 City library employees' retirement system; establishment.

Sec. 1. The legislative body of any incorporated city of 250,000 or more (hereinafter referred to for the purposes of this act as the local legislative body), where free public libraries have been or may hereafter be established is hereby authorized, upon the application and recommendation of the local library board or commission or body duly authorized by law to maintain free public libraries in such city (hereinafter referred to for the purposes of this act as the library board), to establish a system of retiring allowances for the employes of such libraries which system shall be based upon the principle that there shall be accumulated, year by year, a reserve fund sufficient to provide

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the agreed annuity at the time of retirement. Upon the establishment of such system, the local legislative body shall raise by taxation each year a sum which will provide an adequate reserve fund.

HISTORY: CL 1929, 8109;—CL 1948, 38.701.

DETROIT: In 1970 this was the only city in the state meeting the population requirement of this act.

38.702 Library board; submission of retirement plan to local legislative body.

Sec. 2. It shall be the duty of said library board when it desires to establish a system of retiring allowances, to apply to the local legislative body and to submit to said local legislative body for its approval and adoption a detailed plan for such system which shall be based upon the following provisions and conditions:

(a) It shall enumerate the classes of employes to be included in said system;

(b) It shall fix the amount of the annual retiring allowance, the number of years of service necessary to entitle an employe to a retiring allowance, the age at which an employe may be retired, the nature and extent of the physical or mental disability which shall entitle an employe to retire before reaching the age of retirement and the conditions upon which the age of retirement may be anticipated;

(c) It shall provide for a body to be known as the retiring fund trustees which shall consist of 5 members. Two members shall be elected by the staff; 2 members shall be appointed by said local legislative body and the terms of office of said members shall be 4 years except that when the system is first put into effect, the terms of office shall be so fixed that but 1 member's term shall expire each year. The fifth member shall be ex-officio, the presiding officer of the said library board. Said trustees shall have charge of said retiring allowance fund and shall invest the same only in such securities as are legal for savings banks. Said trustees shall adopt such rules and by-laws as may be necessary, and not inconsistent with the constitution and laws of this state and the provisions of this act;

(d) There shall be attached to such system as may be recommended, the certificate of a recognized and competent actuary stating that the system is actuarially sound, and the system shall provide for annual reports and valuations by such actuary to determine whether the fund is on a sound financial and actuarial basis.

HISTORY: CL 1929, 8110;—CL 1948, 38.702.

TRUST FUNDS: Investments, see Compilers' §§ 555.201-555.203.

38.703 Approval of plan by legislative body; commencement.

Sec. 3. Upon the submission by said library board of a plan for a system of retiring allowances, the local legislative body shall take the same under consideration and shall then, in conference with said library board agree upon the details of said plan and if said plan so agreed upon differs from the one submitted, it shall, before adoption, be submitted to an actuary for report upon its financial and actuarial soundness and, if certified to be sound, may then be adopted. The plan shall then be put into operation at the beginning of the next fiscal year, unless an earlier date is agreed upon.

HISTORY: CL 1929, 8111;—CL 1948, 38.703.

38.704 Annual assessment for retirement allowance.

Sec. 4. When a system for retiring allowances has been agreed upon by the local legislative body and the library board and formally adopted by the former, then it shall be the duty of said local legislative body to raise by taxation each year, the sum found necessary to produce the retiring allowance fund required by the system adopted.

HISTORY: CL 1929, 8112;—CL 1948, 38.704.

38.705 Reserve fund and annuities; tax exemption.

Sec. 5. When a system of retiring allowances is adopted under the provisions of this act, the reserve fund thereby provided shall be free from all state, county, township,

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city, village and school district taxes and the annuities payable to the members of the staff shall likewise be free from all such taxes.

HISTORY: CL 1929, 8113;—CL 1948, 38.705.

38.706 Municipal employees' retirement system; coverage of employees of public libraries.

Sec. 6. In lieu, however, of formulating any plan under the foregoing sections of this act the library board and the local legislative body may, by concurrent resolution, adopt and put into effect for the employes of the library any plan which may have been, or may hereafter be, adopted for the employes of the city.

HISTORY: Add. 1935, p. 238, Act 154, Imd. Eff. June 4;—CL 1948, 38.706.

38.752 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section provided for employment of women physicians in state institutions.

38.761-38.764 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for approval and regulation of salaries fixed and allowed by boards of control of various state institutions.

38.791, 38.792 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for vacations of state employees.

Act 198, 1951, p. 250; Eff. Sep. 28.

AN ACT to provide for a judges' retirement system for the purpose of inducing competent and qualified attorneys to become judges and to remain in the service of the people of the state as judges; to provide for the retirement of judges due to age or disability; to provide for the payment of annuities; to create a judges' retirement board and prescribe its powers and duties; to establish certain funds in connection therewith; to provide for contributions thereto by judges and by the state; and to provide penalties for failure to comply with the provisions of this act.

The People of the State of Michigan enact:

38.801 Judges' retirement system; creation, administration by retirement board.

Sec. 1. The state of Michigan judges' retirement system, hereinafter called the retirement system, is hereby created and established. The administration and management of the retirement system, the responsibility for making effective the provisions of this act, and the authority to make all rules and regulations therefor are hereby vested in the retirement board.

HISTORY: New 1951, p. 250, Act 198, Eff. Sep. 28.

CITED IN OTHER SECTIONS: Sections 38.801 to 38.830 are cited in §§ 38.13, 38.28, 38.602, 38.853, 38.861, 38.1102, 600.2528, 600.2529, and 600.8202.

38.802 Judges' retirement system; definitions.

Sec. 2. As used in this act:

(a) "Board" means the retirement board provided for in this act.

(b) "Judge" means any duly elected or appointed member of the supreme court, the court of appeals, the circuit courts, the district courts, the recorder's court for the city of Detroit or of the common pleas court of the city of Detroit. The term "judge" includes the person holding the position of constitutional court administrator.

(c) "Member" means any judge who shall, subject to the provisions of this act, agree to become a member of the retirement system.

(d) "New member" means any member without prior service credited to his service account.

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(e) "Original member" means any member with prior service credited to his service account.

(f) "Service" means service performed as a judge, in any court excepting while serving because holding the office of probate judge. The term "service" also includes service performed in the position of constitutional court administrator and its predecessor position, or as an elected state official, and in the case of the constitutional court administrator, or former elected state official, it includes service rendered in any other position in state government.

(g) "Membership service" means service performed on or after January 1, 1952, as a member.

(h) "Prior service" means service performed prior to January 1, 1952, as a judge in a court of record, or in the position of constitutional court administrator or its predecessor position, or as an elected state official.

(i) "Beneficiary" means any person in receipt of an annuity, or other benefit provided by this act.

(j) "Annuity" means an annual amount payable in equal monthly installments for life.

(k) "Annuity reserve" means the present value of an annuity, or benefit in lieu of an annuity, computed according to such mortality tables and regular interest as the board shall adopt from time to time.

(l) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board shall determine from time to time.

(m) "Final salary" means the annual rate of salary paid by the state to a judge at the time of his retirement.

(n) "Accumulated contributions" means the sum of all amounts contributed by a member and credited to his individual account in the annuity savings fund, together with regular interest thereon.

HISTORY: New 1951, p. 250, Act 198, Eff. Sep. 28;—Am. 1952, p. 439, Act 261, Eff. Sep. 18;—Am. 1963, 2nd Ex. Ses., p. 70, Act 53, Imd. Eff. Dec. 27;—Am. 1965, p. 597, Act 313, Imd. Eff. Jul. 22;—Am. 1970, p. 582, Act 206, Imd. Eff. Aug. 25.

38.803 Retirement board; trustees, appointment.

Sec. 3. Commencing January 1, 1965 the retirement board shall consist of 5 trustees as follows: (1) the state treasurer; (2) the attorney general; (3) deputy to the legislative auditor general; and (4) 2 trustees, to be appointed by the governor, by and with the advice and consent of the senate.

HISTORY: New 1951, p. 251, Act 198, Eff. Sep. 28;—Am. 1952, p. 440, Act 261, Eff. Sep. 18;—Am. 1964, p. 130, Act 136, Imd. Eff. May 16.

CITED IN OTHER SECTIONS: The above section is cited in § 16.206.

38.804 Retirement board; trustees, terms, oath of office.

Sec. 4. The term of office on the board for the trustee appointed by the governor shall be for a period of 3 years. The trustees shall serve without compensation for their services as such. Each trustee shall, before assuming his duties as trustee, take an oath of office which shall be immediately filed with the office of the secretary of state.

HISTORY: New 1951, p. 251, Act 198, Eff. Sep. 28;—Am. 1952, p. 440, Act 261, Eff. Sep. 18.

38.805 Retirement board; vacancies.

Sec. 5. In the event a vacancy occurs on the board for any reason, the vacancy shall be filled for the unexpired term in the same manner as the position was previously filled.

HISTORY: New 1951, p. 251, Act 198, Eff. Sep. 28;—Am. 1952, p. 440, Act 261, Eff. Sep. 18.

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38.806 Retirement board; quorum.

Sec. 6. Four trustees shall constitute a quorum at any meeting of the board. Each trustee shall be entitled to 1 vote and at least 3 concurring votes shall be necessary for a decision by the trustees at any meeting of the board.

HISTORY: New 1951, p. 251, Act 198, Eff. Sep. 28.

38.807 Retirement board; officers; executive secretary; state treasurer, custodian of funds; attorney general, legal advisor; actuary; medical director.

Sec. 7. The board shall elect from its number a chairman and a chairman pro tem.

(a) The executive secretary of the state employees' retirement system, created by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.42, inclusive, of the Compiled Laws of 1948, shall be the executive secretary of the retirement system created by this act. The executive secretary shall, with the approval of the board and subject to the rules and regulations of the civil service commission, employ such administrative, technical and clerical employees as may be required for the proper operation of the retirement system.

(b) The state treasurer shall be treasurer of the retirement system and the custodian of its funds. All bonds and other securities purchased according to the provisions of this act shall be forthwith placed in the hands of the state treasurer and it shall be his duty to collect the principal thereof and the interest thereon, as the same shall become due and payable, and to place the same when so collected into the funds of the retirement system. The state treasurer shall be the custodian of all other funds of the retirement system. The state treasurer shall give a separate and additional bond in such amount as may be fixed by the board, not to exceed $100,000.00, which bond shall be approved by the board and the attorney general. Such bond shall be conditioned upon the faithful performance of his duties as custodian of the funds of the retirement system provided for herein. The cost of such bond shall be paid out of the expense fund of the retirement system and it shall be deposited with the secretary of state and kept in his office.

(c) The attorney general shall be the legal advisor to the board and shall act as its attorney and shall represent the board in all litigation to which it may be a party. The board shall be entitled to rely upon any opinion rendered to it by the attorney general.

(d) The board shall appoint an actuary who shall be the technical advisor to the board regarding the operation of the retirement system on an actuarial basis and who shall perform such other duties as are required in connection therewith.

(e) The board shall appoint as medical director a physician who shall perform such duties as are required by the provisions of this act. The medical director shall be directly responsible to and he shall hold office at the pleasure of the board and he shall report in writing his conclusions on matters of a medical nature referred to him by the board. The administration shall comply with the laws of this state with respect to the submission of budgets for its administration.

HISTORY: New 1951, p. 251, Act 198, Eff. Sep. 28.

38.808 Retirement board; information for actuarial valuation of assets and liabilities of system.

Sec. 8. The board shall adopt such mortality tables and other tables of experience, and such rate of regular interest, as are necessary in the proper operation of the retirement system. The executive secretary shall keep, or cause to be kept, in convenient form, such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system.

HISTORY: New 1951, p. 252, Act 198, Eff. Sep. 28.

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38.809 Retirement board; annual report to governor, contents.

Sec. 9. The board shall render a report to the governor and the state legislature on or before the 15th day of February of each year showing the fiscal transactions of the retirement system for the year ended the preceding 30th day of June, and the last balance sheet showing the financial condition of the retirement system by means of an actuarial valuation of the assets and liabilities of the retirement system.

HISTORY: New 1951, p. 252, Act 198, Eff. Sep. 28.

38.810 Service credit to members; court administrator or former elected state official; minimum salary.

Sec. 10. The board shall credit each member with the number of years and months of service to which he is entitled. The board shall allow service credit for the month in which a member's retirement becomes effective notwithstanding that he retires from service before the end of the month. In no other case shall the board allow service credit for any month for which a member receives less than 1 month's salary nor shall more than 1 month of service be credited for all service rendered in a calendar month. After a member attains age 70 years, no service shall be credited to him beyond the end of the judicial term in which he attains age 70 years. A person who is a member by reason of being constitutional court administrator, or as a former elected state official, shall not receive credit for service performed prior to the date he becomes a member of the retirement system until he pays into the annuity savings fund an amount equal to the amount his accumulated contributions would have been had he been a member. The accumulated contributions paid into the annuity savings fund for those years of prior service performed shall be 7% of the state salary paid to circuit court judges during those years of prior service for which credit is applied.

In no event shall contributions be based on salary of less than $10,000.00 per year. Any member, his widow, or his heirs may elect on forms furnished by the board to apply his years of prior service at such time as it shall be necessary to apply prior service to establish eligibility in the system. In the event the member shall not have paid in the sum as required in this section, then the board shall place as a charge against the first moneys payable under the system to the member, his widow, or his heirs a sum equal to the amount the member would have been required to pay, plus interest at 3% per annum on same from the first day of the year of prior service. The years of prior service performed shall be credited from the earliest to the latest until the necessary credit for service required is met.

HISTORY: New 1951, p. 252, Act 198, Eff. Sep. 28;—Am. 1965, p. 598, Act 313, Imd. Eff. Jul. 22.

38.811 Retirement system; membership agreements; execution; exclusions.

Sec. 11. The membership of the retirement system shall consist of all judges who agree to become members of the retirement system. The agreement shall be in writing on forms furnished by the board within 30 days following the date they first begin their official duties as judges. In the case of the constitutional court administrator within 30 days after the effective date of this 1965 amendment or the date of his appointment to the position of court administrator, whichever is later. The agreement shall continue in full force and effect as long as such person shall remain a judge. By agreeing to become a member of the retirement system, a judge voluntarily agrees to be bound by and consents to all provisions of this act; the agreement shall also include as a provision that the member agrees that in the event of adjudication of mental incompetency of the member, any guardian who may be appointed shall have the power and authority for the purposes of this act to complete and execute any forms required to retire the member according to the provisions of this act. If any judge fails to agree to become a member, he shall not again have the right to become a member. The

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membership of the retirement system shall not include (1) any judge who has previously retired under the provisions of section 13, nor (2) any person who first becomes a judge on or after his attainment of age 60 years unless it is legally possible that he may have 12 or more years of continuous service credited to his account before his retirement. In all cases of doubt, the board shall decide the membership status of any judge as defined in section 2, subdivision (b). Such decision shall, in the absence of bad faith, be conclusive.

HISTORY: New 1951, p. 253, Act 198, Eff. Sep. 28;—Am. 1952, p. 440, Act 261, Eff. Sep. 18;—Am. 1961, p. 244, Act 169, Eff. Sep. 8;—Am. 1965, p. 599, Act 313, Imd. Eff. Jul. 22.

38.812 Retirement system; termination of membership; restoration.

Sec. 12. A judge's membership in the retirement system shall terminate (1) whenever he becomes a beneficiary; or (2) forfeits his membership under the provisions of section 16 of this act; or (3) after becoming age 70, at the end of the judicial term in which he attains age 70 years, or on December 31, 1956, whichever is later; or (4) on his ceasing to be a judge as defined in section 2, subdivision (b) of this act; or (5) upon his failure to pay his contributions as provided in section 20. Except in the case of becoming a beneficiary, all prior service and membership service which may have been credited to the judge shall be forfeited by him at the time his membership terminates. In the event he again becomes a judge before having attained age 60 years, he may again become a member, subject to the provisions of section 11; and in the event he again becomes a member within a period of 9 years following the date his membership last terminated, all prior service and membership service credit which was forfeited by him at the time of his last termination shall be restored to his credit, provided he pays into the annuity savings fund the amount of accumulated contributions which may have been previously refunded to him, together with regular interest thereon computed from the date of withdrawal to the date of repayment.

Any judge or former judge, who before the effective date of this 1968 amendment, met the service requirements in section 13 entitling him to a retirement annuity and failed to retire at the end of the judicial term in which he attained age 70 thereby forfeiting all of his prior service and membership service credit and all other rights under this act, shall have such credit and rights restored to his credit and shall receive a retirement annuity in the amount that would be payable to him had he retired at the time he should have retired to avoid a forfeiture under this section, such annuity to be effective and payable prospectively from the effective date of this 1968 amendment. The board may make appropriate transfers between funds to accomplish this result.

HISTORY: New 1951, p. 253, Act 198, Eff. Sep. 28;—Am. 1967, p. 150, Act 122, Imd. Eff. Jun. 27;—Am. 1968, p. 185, Act 124, Imd. Eff. Jun. 11.

CITED IN OTHER SECTIONS: The above section is cited in § 691.1062.

38.813 Retirement; application, conditions.

Sec. 13. Any member (1) who has attained age 60 years or over and has 20 years or more of continuous service; or (2) who has attained age 65 years or over and has 16 or more years of service credited to him, of which the last 6 years were continuous service; or (3) who has attained age 70 years or over and has 12 or more years of service credited to him, of which the last 6 years were continuous service, shall be retired by the board upon his written application to the governor and the board, setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; or (4) who has 30 or more years of service credited to him of which the last 6 years were continuous service, shall be retired by the board upon his written application to the governor and the board setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. A member retiring from service under this section shall receive a retirement annuity provided for in section 14, and he shall have

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the right to elect an optional retirement annuity as provided for in section 15. A member's credited service acquired in a previous governmental unit under Act No. 88 of the Public Acts of 1961, as amended, being sections 38.1101 to 38.1105 of the Compiled Laws of 1948, may be used in meeting the service requirements but shall not be used in determining the amount of his retirement allowance provided for in section 14. Any judge who presently is, or hereafter becomes, a member of the retirement system, and who, within 2 years before membership was a justice of the peace, circuit court commissioner, judge or associate judge of a municipal court, judge of a police court, judge of the recorder's court of Cadillac, or judge of a probate court may use the period of service rendered as justice of the peace, circuit court commissioner, judge or associate judge of a municipal court, judge of a police court, judge of the recorder's court of Cadillac, or judge of a probate court for the sole purpose of meeting qualifying service requirements but not for determining the amount of retirement or death benefits under this retirement system.

The amount of retirement annuity payable on account of the retirement or death of any such judge or any judge using service credit pursuant to Act No. 88 of the Public Acts of 1961, as amended, shall be equal to the amount of retirement annuity provided in the applicable section of the retirement system multiplied by the ratio of (1) his credited service applicable to his retirement allowance at the time of his retirement or death, but not more than the minimum applicable service requirement, to (2) the minimum applicable service requirement. Except for retirement under section 16, no member shall be permitted to retire until he has been a contributing member for at least 4 years.

HISTORY: New 1951, p. 253, Act 198, Eff. Sep. 28;—Am. 1956, p. 686, Act 224, Eff. Aug. 11;—Am. 1965, p. 121, Act 86, Imd. Eff. Jun. 28;—Am. 1970, p. 582, Act 206, Imd. Eff. Aug. 25.

38.813a Judge leaving office; continuance as member of retirement system; retirement allowance.

Sec. 13a. Any member who ceases to be a judge for any reason other than disability under section 16 of this act, who has 12 or more years of continuous service credited to his account, may elect to remain a member of the retirement system for the sole purpose of receiving a service retirement allowance upon his attainment of age 65. The retirement allowance shall be at the rate of 2 ½% of his last annual state salary times the number of years or fraction of years served, not to exceed the retirement annuity provided for in section 14 of this act.

HISTORY: Add. 1961, p. 244, Act 169, Eff. Sep. 8.

38.814 Retirement annuity; amount.

Sec. 14. Upon a member's retirement from service, he shall annually receive a retirement annuity of 1/2 of the annual salary paid by the state to him at the time of his retirement, payable during the remainder of the member's life, at such time or times as the retirement board may establish.

Judges of the recorder's court of the city of Detroit, or of the common pleas court of the city of Detroit shall receive the same annuity as that paid to circuit judges, payable during the remainder of the member's life, at such times as the retirement board may establish. Payment of annuities under this section shall be subject to the provisions of sections 15 and 18.

HISTORY: New 1951, p. 254, Act 198, Eff. Sep. 28;—Am. 1952, p. 440, Act 261, Eff. Sep. 18;—Am. 1956, p. 686, Act 224, Eff. Aug. 11;—Am. 1961, p. 245, Act 169, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 70, Act 53, Imd. Eff. Dec. 27;—Am. 1965, p. 599, Act 313, Imd. Eff. Jul. 22.

38.815 Regular retirement annuity; optional allowances; election.

Sec. 15. Any member, prior to the effective date of retirement under section 13 of this act, or any eligible disability beneficiary, as provided in section 17 of this act, may elect to receive a retirement annuity payable throughout life and terminating at death, hereinafter called a regular retirement annuity; or may elect to receive the actuarial

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equivalent of the regular retirement annuity, at that time, in a reduced retirement annuity payable throughout life in accordance with the provisions of option 1, 2 or 3, as hereinafter set forth. In the event any member or eligible disability beneficiary fails to elect an option as herein provided, then it shall be presumed the member automatically elected to receive the retirement annuity as a regular retirement annuity.

Option 1. (Cash refund annuity). Under this option a beneficiary who dies before having received in payment of the reduced retirement annuity an aggregate amount equal to the amount of the accumulated contributions credited in the annuity savings fund at the time of retirement, the remainder, if any, shall be paid in a single sum to the spouse. In the event there be no such surviving spouse, then to such person as shall have been nominated by written designation duly executed and filed with the board and if no such nomination is made, then said remainder, if any, shall be paid to the legal representative; or

Option 2. (Joint and last survivorship annuity). Under this option, upon the death of the beneficiary the reduced retirement annuity shall be continued throughout the life of and paid to such spouse; or

Option 3. (Modified joint and last survivorship annuity). Under this option, upon the death of the beneficiary ½ the reduced retirement annuity shall be continued throughout the life of and paid to such spouse.

HISTORY: New 1951, p. 254, Act 198, Eff. Sep. 28;—Am. 1952, p. 180, Act 151, Eff. Sep. 18;—Am. 1970, p. 583, Act 206, Imd. Eff. Aug. 25.

38.815a Optional retirement allowances; new election.

Sec. 15a. Any provision of the law to the contrary notwithstanding, any member who retired prior to August 11, 1956, and who had elected an option under section 15 hereof shall have the right within 60 days after the effective date of this section to review any election of options previously exercised by him, and shall have the right to make a new election of options under section 15. The new election shall be effective as of the first day of the month following the receipt of the new election by the judges' retirement board, and the computation of benefits under the newly elected option shall be in accordance with the provisions of section 14 of this act, as amended.

HISTORY: Add. 1959, p. 394, Act 256, Imd. Eff. Aug. 21.

38.816 Duty disability retirement; application; medical examination; appeal to medical committee; noncompliance, forfeiture of rights; retirement annuity.

Sec. 16. (a) In the event a member who has 10 or more years of service credited to him becomes physically or mentally totally and permanently incapacitated to perform his judicial duties, he shall be retired by the board upon his written application for retirement filed with the governor and the board: Provided, That after a medical examination of the said member, made by or under the direction of the medical director, the medical director certifies in writing to the board (1) that the said member is physically or mentally totally incapacitated to perform his judicial duties; and (2) that such incapacity is likely to be permanent; and (3) that said member should be retired.

(b) In the event a member who (1) has 10 or more years of service credited to him and (2) becomes physically or mentally totally and permanently incapacitated to perform his judicial duties, and (3) fails to apply for retirement as provided in subdivision (a) of this section, an application for his retirement may be filed with the governor and the board by the presiding judge or by the board of commissioners of the state bar of Michigan. The said member, by agreeing to become a member of the retirement system, agrees to submit himself to a medical examination to be made by or under the direction of the medical director. If, after a medical examination of the said member, made by or under the direction of the medical director, the medical director certifies

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in writing to the board (1) that the said member is physically or mentally totally incapacitated to perform his judicial duties, and (2) that such incapacity is likely to be permanent, and (3) that the said member should be retired, the board may request him to retire. Due notice of the board's decision shall be given the said member and the governor, and the said member shall agree to retire upon such request: Provided, That the said member, within 30 days following the giving of the said notice, shall have the right of appeal to a medical committee consisting of 3 physicians, 1 of whom is to be designated by the board, 1 by the said member, and 1 by the first 2 physicians so designated. After a medical examination of the said member, made by or under the direction of the medical committee, the medical committee shall report its findings to the board. The majority opinion of the medical committee, filed in writing with the board, shall be binding on the board and the said member. In the event the said member should refuse to submit to medical examinations as herein required, and should such refusal continue for 90 days; or should the decision of the board or the medical committee, if a medical committee is requested, be that the said member should retire and should he fail to retire within 60 days following the date he is notified of the said decision by registered mail sent to his last known residence address, he shall forfeit for himself and his heirs all rights in and to any and all benefits, excepting the refund of his accumulated contributions, accrued or accruing under this act, and he shall not again become a member or beneficiary of the retirement system.

(c) Any member retiring from service under this section shall receive a retirement annuity provided for in section 17 of this act.

HISTORY: New 1951, p. 254, Act 198, Eff. Sep. 28.

38.817 Retirement annuity; computation.

Sec. 17. (a) Upon retirement from service as provided in section 16 of this act, a member who has not attained age 65 years shall receive a retirement annuity computed according to the provisions of section 14 of this act and option 1 (cash refund annuity) as provided in section 15 of this act. Upon his attainment of age 65 years, but not later than 30 days thereafter, he shall have the right to elect an option provided for in section 15 of this act.

(b) Upon retirement from service as provided in section 16 of this act, a member who has attained age 65 years or over shall receive a retirement annuity computed according to the provisions of section 14 of this act, and he shall have the right to select an option provided for in section 15 of this act.

HISTORY: New 1951, p. 255, Act 198, Eff. Sep. 28.

38.818 Beneficiary again becoming judge; termination of annuity temporary service as appointee.

Sec. 18. In the event any beneficiary who retired under the provisions of this act again becomes a judge in any court, except as provided in article 6, section 23 of the state constitution and in laws enacted pursuant thereto, payment of his annuity shall terminate and he shall not again become a member or beneficiary of the retirement system. If he thereafter performs judicial duties as provided in article 6, section 23, of the state constitution, the payment of his annuity shall be suspended only for the period during which such judicial duties are being performed.

HISTORY: New 1951, p. 255, Act 198, Eff. Sep. 28;—Am. 1964, p. 130, Act 136, Imd. Eff. May 16.

38.819 Withdrawal from service or death before retirement; refund of contributions.

Sec. 19. Should any member cease to be a judge prior to his retirement from service with a retirement annuity payable out of funds of the retirement system, he shall be paid the amount of his accumulated contributions standing to his credit in the annuity savings fund as he shall demand in writing on forms furnished by the board, provided

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the same has not been forfeited under the provisions of this act. In the event any member dies before becoming entitled to receive a retirement annuity, the amount of his accumulated contributions standing to his credit in the annuity savings fund at the time of his death shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the board. In the event there be no such designated person or persons surviving the said member, his accumulated contributions shall be paid to his legal representative.

HISTORY: New 1951, p. 255, Act 198, Eff. Sep. 28.

38.819a Surviving spouse; retirement annuity.

Sec. 19a. The spouse of any member who dies or who shall have died in office or on retirement on or after September 28, 1951, and has had 10 or more years of service prior to death, and which spouse at the time of death of the judge had been married to such judge for at least 10 years of the service, and who has reached the age of 55, shall be entitled to apply to the retirement board for and to receive for life a retirement annuity in the amount of ½ of the retirement annuity provided for such judge in section 14 of this act, until remarriage. If the spouse is not receiving any annuity under section 15, and if there shall be no refund of accumulated contributions under section 19. The spouse shall have the election of coming under the provisions of this section, or of accepting the refund of accumulated contributions if the judge was not retired, or of accepting any annuity provided for and elected by the judge, under the options of section 15, if the judge was retired at the time of death. These amendatory provisions shall not impair any vested rights heretofore established.

HISTORY: Add. 1952, p. 89, Act 79, Imd. Eff. Apr. 9;—Am. 1956, p. 686, Act 224, Eff. Aug. 11;—Am. 1965, p. 599, Act 313, Imd. Eff. Jul. 22;—Am. 1970, p. 583, Act 206, Imd. Eff. Aug. 25.

38.819b Surviving spouse with children; retirement annuity.

Sec. 19b. If the spouse of a member is less than 55 years of age, but is otherwise entitled to receive a retirement annuity pursuant to section 19a, and having custody of a minor dependent child or children under 19 years of age of the deceased member, shall be entitled, upon application to the retirement board, to receive a retirement annuity in the amount provided above until remarriage or no longer has custody of a minor dependent child or children under 19 years of age of the deceased member, whichever first occurs. The application for and receipt of a retirement annuity pursuant to this section shall not limit the right of the spouse to apply for and receive a retirement annuity pursuant to section 19a upon attaining age 55, and upon so doing the spouse's rights under this section shall terminate. The benefits established by this section shall be payable only upon application therefor and only from and after the effective date of this section.

HISTORY: Add. 1959, p. 394, Act 256, Imd. Eff. Aug. 21;—Am. 1970, p. 584, Act 206, Imd. Eff. Aug. 25.

38.820 Annuity savings fund; contributions required.

Sec. 20. (a) The annuity savings fund is hereby created. The annuity savings fund shall be the fund in which shall be accumulated, at regular interest, the contributions from the salaries of members, and from which shall be paid refunds of accumulated contributions as provided in this act.

(b) The contributions of each member shall be 7% of his salary paid to him by the state, an amount equivalent to the salary of that paid by the state to the circuit judges in the case of the superior court of the city of Grand Rapids and the recorder's court of the city of Detroit, or of the common pleas court of the city of Detroit, from and after September 8, 1961, or upon his taking office, whichever is later, and continuing so long as he remains a member. The manner by which the members' contributions provided for herein shall be paid shall be determined by rules and regulations to be adopted by the board. In the event a member's contribution be not paid within 60

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days after its due date, he shall thereupon cease to be a member and he shall forfeit for himself and his heirs all rights in and to any and all benefits. The board shall provide for the maintenance of an individual account for each member showing the amount of his contribution, together with interest additions thereto. Upon a member's retirement from service, his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund. At the expiration of a period of 3 years following the date a person ceases to be a member, any balance of accumulated contributions standing to his credit in the annuity savings fund unclaimed by or on behalf of said person shall be transferred from the annuity savings fund to the income fund. In the event any member's accumulated contributions are forfeited by him, as provided in this act, the same shall be transferred from the annuity savings fund to the income fund.

HISTORY: New 1951, p. 256, Act 198, Eff. Sep. 28;—Am. 1952, p. 441, Act 261, Eff. Sep. 18;—Am. 1961, p. 245, Act 169, Eff. Sep. 8;—Am. 1962, p. 135, Act 141, Eff. Mar. 28, 1963.

38.821 Annuity reserve fund; creation, contributions, computations; transfer of fund.

Sec. 21. The annuity reserve fund is created. The annuity reserve fund shall be the fund in which shall be accumulated reserves arising from moneys received under the provisions of sections 2528, 7651, 8371 and 8420 of Act No. 236 of the Public Acts of 1961, as added and amended, being sections 600.2528, 600.7651, 600.8371 and 600.8420 of the Compiled Laws of 1948, and transfers from the annuity savings fund, as provided in this act, and from which shall be paid all annuities, and benefits in lieu of annuities, as provided in this act.

(a) Upon the basis of such mortality tables, regular interest and other tables as the board shall adopt, the actuary shall, at least once in each biennium, compute the amount of contributions which is paid annually during the entire prospective service of new members and which will be sufficient to provide for the annuity reserves required, at the time of their discontinuances from service, to cover the annuities to which they might be entitled, or which might be payable on their account out of funds provided by the state. The aggregate amount due the annuity reserve fund shall be the total annual contributions for all new members who are members of the retirement system during the preceding fiscal year.

(b) Upon the basis of such mortality tables, regular interest and other tables as the board shall adopt, the actuary shall compute, at least once in each biennium, the amount of single contributions which, if paid into the annuity reserve fund, would be sufficient to cover the total liability assumed by the annuity reserve fund on account of the payment of annuities, and benefits in lieu of annuities, provided for in this act for original members. The amount of such single contribution shall be amortized over a period of years, to be determined by the board, not to exceed 40 years.

(c) The executive secretary shall deposit with the state treasurer, in accordance with the accounting laws of this state, the amounts of money received by him under the provisions of Act No. 236 of the Public Acts of 1961, as amended. When so transferred, 90% of the amounts shall be credited to the annuity reserve fund of the retirement system and 10% of the amounts shall be credited to the expense fund of the retirement system.

HISTORY: New 1951, p. 256, Act 198, Eff. Sep. 28;—Am. 1957, p. 162, Act 139, Eff. Sep. 27;—Am. 1960, p. 126, Act 114, Eff. Aug. 17;—Am. 1970, p. 584, Act 206, Imd. Eff. Aug. 25.

38.822 Income fund; creation, purpose; funds credited thereto.

Sec. 22. The income fund is hereby created for the purpose of crediting regular interest on the mean amounts in the various other funds of the retirement system, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds of the retirement system may be covered. Transfers for such

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special requirements shall be made only when the amount in the income fund exceeds the ordinary requirements of such fund as evidenced by a resolution of the board recorded in its minutes. The board shall annually allow regular interest for the preceding year to each of the other funds of the retirement system, except the expense fund, and the amounts so allowed shall be due and payable to the said funds and shall be annually credited thereto by the board and shall be paid from the income fund: Provided, however, That interest on contributions made by members within any 1 fiscal year shall begin on the first day of the fiscal year next following and shall be computed at the end of the fiscal year. All interest, dividends and other income derived from the deposits and investments authorized by this act shall be paid into the income fund. The retirement board is hereby authorized to accept gifts and bequests. Any funds that may come into the possession of the retirement system in such manner, or any funds which may be transferred from the annuity savings fund by reason of lack of claimant, or because of a surplus in any fund created by this act, or any other moneys the disposition of which is not otherwise provided for herein, shall be credited to the income fund.

HISTORY: New 1951, p. 257, Act 198, Eff. Sep. 28.

38.823 Expense fund; creation, purpose.

Sec. 23. The expense fund is hereby created for the purpose of crediting income received as provided in this act to pay the administrative expenses of the retirement system, and from which shall be paid the expenses necessary in the administration of this act, exclusive of amounts payable as annuities and other benefits provided for in this act.

HISTORY: New 1951, p. 257, Act 198, Eff. Sep. 28.

38.824 Funds; trustees; investment; deposits; disbursements.

Sec. 24. (a) The members of the retirement board shall be trustees of the several funds created by this act. The power to invest funds of the system is vested in the investment committee provided in section 91 of Act No. 380 of the Public Acts of 1965, as added, being section 16.191 of the Compiled Laws of 1948. Investments shall be subject to the limitations provided in Act No. 314 of the Public Acts of 1965, as amended, being sections 38.1121 to 38.1131 of the Compiled Laws of 1948.

(b) The state treasurer is authorized and directed to deposit any portion of the funds of the retirement system, not needed for immediate use, in the same manner and subject to all provisions of law with respect to the deposit of state funds by the state treasurer, and all interest earned by such portion of the said retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him and placed to the credit of the income fund of the retirement system.

(c) There shall be kept on deposit available cash not exceeding 10% of the total assets of the retirement system. All funds of the retirement system shall be held for the sole purpose of meeting disbursements for annuities and other benefits authorized by this act and shall be for no other purpose. The description of the various funds of the retirement system shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of moneys in the various funds of the retirement system. All disbursements from the funds of the retirement system shall be paid by the state treasurer upon vouchers duly authorized by the board and bearing the signature of a duly authorized officer of the board.

HISTORY: New 1951, p. 257, Act 198, Eff. Sep. 28;—Am. 1962, p. 135, Act 141, Eff. Mar. 28, 1963;—Am. 1970, p. 584, Act 206, Imd. Eff. Aug. 25.

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38.825 Retirement board members and employees; interest in investments prohibited.

Sec. 25. Except as provided herein, no member or employee of the board shall have any interest, direct or indirect, in the gains or profits of any investments made of retirement system funds, nor as such directly or indirectly receive any pay or emolument for his services. And no member or person connected with the board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits, or in any manner use the same except to make such current and necessary payments as are authorized by the board; nor shall any member or employee of the board become an endorser of surety or become in any manner an obligor for moneys loaned by or borrowed of the board.

HISTORY: New 1951, p. 258, Act 198, Eff. Sep. 28.

38.826 Annuity; nonassignability; exemption from process of law.

Sec. 26. The right of any person to an annuity, to the return of accumulated contributions, the annuity itself, any optional benefit, any other right accrued or accruing to any member or beneficiary under the provisions of this act, and the moneys belonging to the retirement system, shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, except as is specifically provided by the provisions of this act.

HISTORY: New 1951, p. 258, Act 198, Eff. Sep. 28.

38.827 Retirement system records; change or error, correction.

Sec. 27. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the board shall correct such error and, as far as is practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which said member or beneficiary was correctly entitled shall be paid.

HISTORY: New 1951, p. 258, Act 198, Eff. Sep. 28.

38.828 Retirement system records; falsification, penalty.

Sec. 28. Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than 90 days or by a fine of not more than $100.00, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1951, p. 258, Act 198, Eff. Sep. 28.

38.829 Judicial position; vacancy created by retirement, filling.

Sec. 29. Upon the retirement of any member under this act, the judicial position held by him shall be deemed vacant, and such vacancy shall be filled as prescribed by law.

HISTORY: New 1951, p. 258, Act 198, Eff. Sep. 28.

38.830 Judges' retirement act; short title.

Sec. 30. This act shall be known and may be referred to and cited as the "judges' retirement act."

HISTORY: New 1951, p. 258, Act 198, Eff. Sep. 28.

Act 205, 1951, p. 280; Imd. Eff. Jun. 14.

AN ACT to provide for the coverage of certain officers and employees of the state of Michigan, of instrumentalities of the state of Michigan, of interstate instrumentali-

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ties jointly created by the state of Michigan and any other state or states, and of local governments of the state of Michigan under the old-age and survivors insurance provisions of title II of the federal social security act, as amended; to prescribe the powers and duties of the state retirement board in respect to such coverage; to provide for the cost of administration of this act by collections from employers above the costs of coverage.

The People of the State of Michigan enact:

38.851 Federal social security old-age and survivors' insurance coverage; extension to public employees; maintenance of benefits.

Sec. 1. In order to extend to employees of the state of Michigan and its political subdivisions and to the dependents and survivors of such employees, the provisions of old-age and survivors insurance system embodied in the social security act, it is hereby declared to be agreeable to the state, subject to the limitations of this act, that such steps be taken as to provide such coverage to employees of the state and its political subdivisions, on as broad a basis as permitted by title II of the social security act.

In the event the positions of any coverage group covered by any public retirement system shall become covered under old-age and survivors insurance, then the aggregate benefits, old-age and survivors insurance and those of the public retirement system combined, for such public employees in positions covered by a retirement system on January 1, 1955, and for those receiving or entitled to receive periodic benefits from such retirement systems on January 1, 1955, shall not be less than the benefits provided by their respective retirement acts, charters, ordinances, or other official instruments of coverage in effect on January 1, 1955.

HISTORY: New 1951, p. 280, Act 205, Imd. Eff. Jun. 14;—Am. 1955, p. 43, Act 39, Imd. Eff. Apr. 21.
CITED IN OTHER SECTIONS: Sections 38.851 to 38.871 are cited in §§ 38.221, 38.233, 38.355, and 280.32.

38.852 Extension of social security to public employees; definitions.

Sec. 2. For the purposes of this act—

(a) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the federal insurance contributions act, would not constitute "wages" within the meaning of that act;

(b) The term "employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, including service performed by a circuit court stenographer in any county which pays any part of his wages, for such employer, except (1) service which in the absence of agreement entered into under this act would constitute "employment" as defined in the social security act; (2) service which under the social security act may not be included in an agreement between the state and the secretary of health, education, and welfare entered into under this act: Provided, That no existing retirement system may hereafter be abolished in whole for the purpose of bringing the employees of such political subdivision under the provisions of this act: Provided, All services of an emergency nature shall be excluded, and that service (1) in any class or classes of part time positions, (2) in any class or classes of positions filled by popular election, (3) of a student, (4) performed in agricultural labor, or (5) any positions the compensation for which is on a fee basis, may be excluded in a plan submitted under section 8 of this act: Provided further, That service which under the social security act may be included in an agreement only upon certification by the governor or an official delegated by him in accordance with section 218 (d) (3) of title II of the social security act shall be included in the term "em-

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ployment" if and when the governor or an official delegated by him issues, with respect to such service, a certificate to the secretary of health, education, and welfare pursuant to section 21 (b) of this act;

(c) The term "employee" includes an officer, including elected officials, of a state or political subdivision thereof; and shall include as service performed for a county, service performed by a circuit court stenographer in each county which pays any part of his wages. It shall also include persons defined as "public school employees" under section 1 of chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, and persons defined as "member" under section 11 of chapter II of said act;

(d) The term "department" means the retirement board of the retirement system created and established by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948: Provided, however, That the department is authorized, pursuant to an agreement with the head of any state agency, to delegate any of its functions under this act which involved the correcting of reports or the auditing of the records of political subdivisions, to any officer or employee of such state agency, and the terms of payment therefor shall be provided in such agreement;

(e) The term "secretary of health, education, and welfare" includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the social security act with respect to coverage under such act of employees of states and their political subdivisions, and with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom such administrator had delegated any such functions.

(f) The term "political subdivision" includes the regents of the university of Michigan, the state board of agriculture, and an instrumentality (1) of the state, (2) of 1 or more of its political subdivisions, or (3) of the state and 1 or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision: Provided, however, That any organization which has been held to be exempt from taxes imposed by sections 1400 and 1410 of the federal insurance contributions act, by reason of being an instrumentality of 1 or more political subdivisions of the state which is wholly owned by 1 or more subdivisions of the state within the exception provided by sections 1426 (b) (8) and 1607 (c) (7) of the federal insurance contributions act, shall be deemed for the purposes of this act to be a juristic entity and shall be accepted for coverage under this act upon depositing with the department a sum in cash or government bonds equal to 4 times the estimated average quarterly contributions for which such instrumentality shall be liable under the agreement entered into with the department, which deposit shall be continuously maintained as recomputed from time to time in accordance with current estimates of such average quarterly contributions;

(g) The term "social security act" means the act of congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "social security act," (including regulations and requirements issued pursuant thereto), as such act was last amended prior to the effective date of this act; and

(h) The term "federal insurance contributions act" means sub-chapter A of chapter 9 of the federal internal revenue code of 1939 and sub-chapters A and B of chapter 21 of the federal internal revenue code of 1954, as such codes have been and may from time to time be amended; and the term "employee tax" means the tax imposed by section 1400 of such code of 1939 and section 3101 of such code of 1954.

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(i) The term "plan" shall be confined to the old-age and survivors insurance program of the social security act.

HISTORY: New 1951, p. 280, Act 205, Imd. Eff. Jun. 14;—Am. 1953, p. 140, Act 137, Eff. Oct. 2;—Am. 1955, p. 43, Act 30, Imd. Eff. Apr. 21;—Am. 1961, p. 82, Act 53, Eff. Sep. 8.

38.853 Extension of social security; agreement between state and secretary of health, education and welfare; contents, approval by attorney general.

Sec. 3. (a) The department is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare, consistent with the terms and provisions of this act, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute employment as defined in section 2 (b) of this act, as amended. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the department and the secretary of health, education, and welfare shall agree upon: Provided, however, Such agreement shall provide in effect that: (1) Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein. Effective with respect to agreements or modifications to an agreement executed on or after January 1, 1960, a state may make coverage retroactive for 5 years preceding the year in which the agreement or modification is executed but not earlier than January 1, 1956; (2) all services which constitute employment as defined in section 2, as amended, and are performed in the employ of the state by employees of the state, except such services as may have been specifically excluded, shall be covered by the agreement; (3) all services which (a) constitute employment as defined in section 2, as amended, except such services as may have been specifically excluded, (b) are performed in the employ of a political subdivision of the state, and (c) are covered by a plan for extending the benefits of title II of the social security act which is in conformity with the terms of the agreement and has been approved by the department under section 8, shall be covered by the agreement; (4) as modified, the agreement shall include all services described in either subdivision (2) or subdivision (3) of this subsection and performed by individuals to whom section 218 (c) (3) (c) of title II of the social security act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of a retirement system; and (5) as modified, the agreement shall include all services described in either subdivision (2) or subdivision (3) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor or an official delegated by him has issued a certificate to the secretary of health, education, and welfare pursuant to section 21 (b) of this act: Provided, however, That the said agreement shall be approved by the attorney general.

Separate coverage groups.

(b) Pursuant to section 218 (d) (6) of title II of the social security act: (1) The state employees' retirement system established under Act No. 240 of the Public Acts of 1943, as amended, for the purposes of this act shall be deemed to constitute a separate retirement system with respect to the state, subject to the following exception: At the discretion of the appropriate governing body, such employees of the Michigan college of mining and technology as are members of the state employees' retirement system may be a separate coverage group; (2) the Michigan public school employees' retirement system, established under chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.234 of the Compiled Laws of 1948, for the purposes of this act shall be considered a separate retirement system and the members

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thereof shall be a separate coverage group, subject to the following exception: (a) At the discretion of the appropriate governing body, employees of Ferris institute and such employees of the Michigan college of mining and technology as are members of the Michigan public school employees' retirement system, may be separate coverage groups, respectively; (b) at the discretion of the state board of education, employees of the eastern Michigan college, central Michigan college, northern Michigan college and western Michigan university may be 1 coverage group, or the employees of each such institution may be made a separate coverage group; and (c) employees of junior colleges or community colleges shall be considered as employees of the public school districts or community college districts operating the junior colleges or community colleges and shall be included in the coverage group for employees of public school districts under the Michigan public school employees' retirement system established under chapter 1 of Act No. 136 of the Public Acts of 1945; (3) the Detroit public school employees' retirement system established under chapter 2 of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.301 to 38.356 of the Compiled Laws of 1948, for the purposes of this act shall be considered a separate retirement system and the members thereof shall be a separate coverage group, subject to the following exception: Employees of an institution of higher learning shall be considered a separate coverage group upon request to the governor of the board or body responsible for making appropriations for the operation of such institution of higher learning; (4) the employees of the state board of agriculture shall be deemed to constitute a separate retirement system, for the purposes of this act; (5) the employees of the regents of the university of Michigan shall be deemed to constitute a separate retirement system for the purposes of this act: Provided, That at the discretion of the board of regents the 2 retirement systems presently maintained by the university of Michigan may be regarded as separate coverage groups; (6) any other retirement systems presently maintained and administered by political subdivisions of this state shall, for the purposes of this act, be deemed to constitute separate retirement systems or coverage groups; (7) the municipal employees' retirement system, exclusive of those employees expressly excluded by the national social security act, established under Act No. 135 of the Public Acts of 1945, as amended, being sections 38.601 to 38.667 of the Compiled Laws of 1948, shall for the purposes of this act constitute a separate retirement system: Provided, That upon action of the governing body of the said municipal employees' retirement system, employees of the participating municipalities therein may be regarded as constituting separate retirement systems or coverage groups; (8) the probate judges' retirement system established under Act No. 165 of the Public Acts of 1954, as amended, being sections 38.901 to 38.933 of the Compiled Laws of 1948, shall constitute a separate retirement system for the purposes of this act; and (9) the judges' retirement system established under Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948, shall constitute a separate retirement system for the purposes of this act.

HISTORY: New 1951, p. 281, Act 205, Imd. Eff. Jun. 14;—Am. 1955, p. 45, Act 39, Imd. Eff. Apr. 21;—Am. 1957, p. 181, Act 161, Eff. Sep. 27;—Am. 1958, p. 239, Act 199, Imd. Eff. Apr. 21;—Am. 1961, p. 84, Act 83, Eff. Sep. 8.

38.854 Extension of social security; joint action with other states.

Sec. 4. Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (a) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (b) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under section 5 if they were covered by an agreement made pursuant to section 3, and (c) to make payments to the secretary of the treasury

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in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of section 3 and other provisions of this act.

HISTORY: New 1951, p. 281, Act 205, Imd. Eff. Jun. 14;—Am. 1955, p. 46, Act 39, Imd. Eff. Apr. 21.

38.855 Employee contributions required.

Sec. 5. Every employee of the state, including public school employees as defined under section 2 (c) of this act, whose services are covered by an agreement entered into under section 3 shall be required to pay for the period of such coverage, into the contribution fund established by section 13, at such time or times as the secretary of health, education, and welfare may by regulation prescribe, amounts equivalent to the sum of the taxes which would be imposed under the federal insurance contributions act if the services of employees covered by this agreement constituted employment as defined in such act.

HISTORY: New 1951, p. 282, Act 205, Imd. Eff. Jun. 14;—Am. 1955, p. 46, Act 39, Imd. Eff. Apr. 21;—Am. 1957, p. 183, Act 161, Eff. Sep. 27.

CITED IN OTHER SECTIONS: The above section is cited in § 38.861.

38.856 Employee contributions; payroll deduction.

Sec. 6. The contribution imposed by section 5 shall be collected by the state treasurer by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution. The contributions so collected shall be turned over to the contribution fund established under section 13 of this act.

HISTORY: New 1951, p. 282, Act 205, Imd. Eff. Jun. 14;—Am. 1961, p. 85, Act 83, Eff. Sep. 8.

38.857 Employee contributions; adjustments, refunds.

Sec. 7. If more or less than the correct amount of the contribution imposed by section 5 is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made in such manner and at such times as the department shall prescribe.

HISTORY: New 1951, p. 282, Act 205, Imd. Eff. Jun. 14.

38.858 Political subdivision; submission of plan for extension of social security benefits; requirements, approval.

Sec. 8. Each political subdivision of the state is hereby authorized to submit for approval by the department a plan for extending the benefits of title II of the social security act, in conformity with applicable provisions of such act, to employees of such political subdivision. Such plan shall be made effective on a date specified therein. Each such plan, and any amendment thereof, shall be approved by the department if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the department, except that no such plan shall be approved unless—

(a) It is in conformity with the requirements of title II of the social security act and with the agreement entered into under section 3;

(b) It provides that all services which constitute employment and are performed in the employ of the political subdivisions by employees thereof, shall be covered by the plan. The plan, however, may exclude from coverage certain services as provided by subsection (b) of section 2 of this act as amended and/or services performed by individuals to whom section 218 (c) (3) (c) of title II of the social security act is applicable;

(c) It specifies the source or sources from which the funds necessary to make the payments required by section 9, by subsection (a) of section 11, and by section 12 are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

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(d) It provides that the political subdivision shall perform such services as are required for the proper operation of the plan;

(e) It provides that the political subdivision will make such reports, in such form and containing such information, as the department may from time to time require, and comply with such provisions as the department or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports; and

(f) It authorizes the department to terminate the plan in its entirety, in the discretion of the department, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the department and may be consistent with the provisions of the social security act:

(g) Provided, That the boards of supervisors shall have power and they are hereby authorized at any meeting thereof legally held to provide social security coverage as provided under this act for county employees of their respective counties, and of the several offices, boards and departments thereof including the board of county road commissioners.

HISTORY: New 1951, p. 282, Act 205, Imd. Eff. Jun. 14;—Am. 1955, p. 47, Act 39, Imd. Eff. Apr. 21.

38.859 Political subdivision; plan to provide for appropriations to contribution fund.

Sec. 9. Each plan made under section 8 shall provide that the political subdivision will appropriate to the contribution fund created under section 13 of this act for each year that the plan is in effect an amount equal to the subdivision's share of the cost of administration of this act by the department, such amount to be not greater than 5 per centum of the contributions made by the subdivision under the requirements of section 11.

HISTORY: New 1951, p. 283, Act 205, Imd. Eff. Jun. 14.

38.860 Nonapproval of plan; notice, hearing; review by supreme court.

Sec. 10. The department shall not finally refuse to approve a plan submitted by a political subdivision under section 8, and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby. The findings of fact made by the department acting within its power shall, in the absence of fraud, be conclusive, but the Michigan supreme court shall have power to review all questions of law involved in any such proceedings of the department: Provided, That application for such review be made by the aggrieved political subdivision within such time after a final determination by the department, as may be prescribed by statute or rule of said court.

HISTORY: New 1951, p. 283, Act 205, Imd. Eff. Jun. 14.

38.861 Political subdivision; payments into contribution fund.

Sec. 11. (a) Each political subdivision as to which a plan has been approved under this section shall pay into the contribution fund, created under section 13, with respect to wages at such time or times as the department may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the department under section 3, and for the purpose of this subsection, the amounts severally due on behalf of the state and of such other employers may be determined in accordance with section 218 (e) (2) of the federal social security act.

Contributions by employees.

(b) Every employee of a political subdivision required to make payments under subsection (a) of this section, whose services are covered by an approved plan, shall be required to pay for the period of such coverage to the political subdivision at such time

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or times as the secretary of health, education and welfare may by regulation prescribe, amounts equivalent to the sum of the taxes which would be imposed under the federal insurance contributions act if the services of employees covered by this agreement constituted employment as defined in such act. Such liability shall arise in consideration of the employee's retention in, or entry upon, employment after enactment of this act. The political subdivision is authorized to deduct the amount of such contributions from the wages of such employee as and when paid.

Judges' retirement system.

With respect to the judges' retirement system established under Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948:

Contributions by judges.

(1) For each judge who is a member of the judges' retirement system, his social security taxes retroactive from the date of the social security agreement covering such judge to January 1, 1956, or to the date of his entry into the judges' retirement system, whichever is later, shall be paid by the participating judge. For each judge who is not a member of the judges' retirement system, his social security taxes retroactive from the date of the social security agreement covering such judge to January 1, 1956, or to the date upon which he assumed the duties of judge, whichever is later, shall be deducted from his first payroll check following the date of the social security agreement.

All social security taxes upon the judge subsequent to the social security date shall be paid as provided in section 5 of Act No. 161 of the Public Acts of 1957, as amended, being section 38.855 of the Compiled Laws of 1948, and shall be in addition to any contributions provided for in this subsection (b), as amended.

Employer's social security taxes.

(2) The employer's social security taxes covering members of the judges' retirement system, except judges of the recorder's court and common pleas court of Detroit, shall be paid by the state. The employer social security taxes for judges of the recorder's court and common pleas court of Detroit and judges who are not members of the judges' retirement system shall be paid by the political entity or entities from which the judge receives any part of his salary.

Payment of contributions, adjustment.

(c) Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of such political subdivision under subsection (a). Failure to deduct such contributions shall not relieve the employee or employer of liability therefor. If more or less than the correct amount of the contribution imposed by subsection (b) is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impractical, shall be made in such manner and at such times as the political subdivision shall prescribe.

HISTORY: New 1951, p. 283, Act 205, Imd. Eff. Jun. 14;—Am. 1955, p. 47, Act 39, Imd. Eff. Apr. 21;—Am. 1957, p. 183, Act 161, Eff. Sep. 27;—Am. 1958, p. 241, Act 199, Imd. Eff. Apr. 21;—Am. 1964, p. 30, Act 25, Imd. Eff. Apr. 29;—Am. 1969, p. 482, Act 251, Imd. Eff. Aug. 11.

38.862 Political subdivisions; delinquent payments, recovery with interest.

Sec. 12. Delinquent payments due under subsection (a) of section 11 may, with interest at the rate of 6 per centum per annum, be recovered by action in the circuit court against the political subdivision liable therefor, or shall at the request of the department be deducted from any other moneys payable to such subdivision by any department or agency of the state.

HISTORY: New 1951, p. 283, Act 205, Imd. Eff. Jun. 14.

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38.863 Contribution fund; establishment, deposits; jurisdiction of department.

Sec. 13. There is hereby established in the office of the state treasurer a special fund to be known as the contribution fund. Such fund shall consist of and there shall be deposited in such fund: (a) All contributions, interest, and penalties collected under sections 5, 8, 10 and 11; (b) all moneys appropriated thereto under this act; (c) any property or securities and earnings thereof acquired through the use of moneys belonging to the fund; (d) interest earned upon any moneys in the fund, and (e) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source. All moneys received in the fund under this section shall be mingled and undivided, except as provided in section 14 hereof. Subject to the provisions of this act, the department is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this act.

HISTORY: New 1951, p. 284, Act 205, Imd. Eff. Jun. 14.

38.864 Contribution fund; administrative account, establishment, deposits.

Sec. 14. There shall be established within the contribution fund a separate account to be known as the administrative account. This account shall consist of, and there shall be deposited therein, all moneys received under sections 9 and 18. All moneys received in the administrative account shall be mingled and undivided.

HISTORY: New 1951, p. 284, Act 205, Imd. Eff. Jun. 14.

38.865 Contribution fund; segregation; withdrawals.

Sec. 15. The contribution fund shall be established and held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purpose of this act. Withdrawals from such fund shall be made for, and solely for (a) payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under section 3; (b) payment of refunds provided for in section 7 of this act; (c) the expenses of administration of this act; and (d) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality, including overpayments of their share of the cost of administration of this act made under section 9.

HISTORY: New 1951, p. 284, Act 205, Imd. Eff. Jun. 14.

38.866 Contribution fund; payments to secretary of treasury.

Sec. 16. From the contribution fund the custodian of the fund shall pay to the secretary of the treasury of the United States such amounts as are provided under the agreement entered into under section 3 and the social security act, at such time or times as the department directs.

HISTORY: New 1951, p. 284, Act 205, Imd. Eff. Jun. 14.

38.867 Contribution fund; administration.

Sec. 17. The treasurer of the state shall be ex-officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of this act and the directions of the department and shall pay all warrants drawn upon it in accordance with the provisions of this act and with such regulations as the department may prescribe pursuant thereto.

HISTORY: New 1951, p. 284, Act 205, Imd. Eff. Jun. 14.

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38.868 Annual appropriation to contribution fund for payments to secretary of treasury.

Sec. 18. There are hereby authorized to be appropriated annually to the contribution fund, in addition to the contributions collected and paid into the contribution fund under sections 5, 11 and 12, to be available for the purposes of section 15 and section 16 until expended, such additional sums as are found to be necessary in order to make the payments to the secretary of the treasury of the United States which the state is obligated to make pursuant to the agreement entered into under section 3.

HISTORY: New 1951, p. 284, Act 205, Imd. Eff. Jun. 14.

38.869 Appropriation of all contributions to contribution fund.

Sec. 19. For the purpose of administering the provisions of this act, there are hereby appropriated to the department all contributions made to the contribution fund under section 9 and there is authorized to be appropriated from the general fund for each fiscal year an amount necessary to pay the state's proportionate share of the cost of administration of this act.

HISTORY: New 1951, p. 284, Act 205, Imd. Eff. Jun. 14.

38.870 Rules and regulations.

Sec. 20. The department shall make and publish such rules and regulations, not inconsistent with the provisions of this act, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this act.

HISTORY: New 1951, p. 285, Act 205, Imd. Eff. Jun. 14.

38.871 Referendum on coverage; petition.

Sec. 21. (a) With respect to employees of the state who are members of the state employees' retirement system created by Act No. 240 of the Public Acts of 1943, as amended, the regents of the university of Michigan, the state board of agriculture, public school employees who are members of the retirement system created by chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, the probate judges who are members of the probate judges' retirement system created by Act No. 165 of the Public Acts of 1954, as amended, and the judges who are members of the judges' retirement system created by Act No. 198 of the Public Acts of 1951, as amended, the governor is empowered to authorize a referendum upon the request of the respective boards administering the retirement systems for such coverage group. With respect to the employees of any political subdivision, including a school district of the first class whose employees are members of the retirement system created by chapter 2 of Act No. 136 of the Public Acts of 1945, as amended, he shall authorize a referendum only upon joint petition of the governing body of such political subdivision or school district of the first class together with the governing body of the retirement system in which such employees have membership. In lieu of the governing body of the retirement system in which such employees have membership and/or if there is no such retirement system governing body, there may be substituted as joint petitioner with the governing body of such political subdivision a petition signed by not less than 20% of the employees in positions under consideration for old-age and survivors insurance coverage.

Referendum, conduct.

The referendum shall be conducted in accordance with the provisions of section 218 (d) (3) of title II of the social security act, by the retirement system governing body, or, if no such retirement system governing body, then by the governing body of the political subdivision under the supervision of the governor or any agency or individual designated by him on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this act: Provided, That in the case of a retirement system that is part of the charter of the political subdivision, the plan shall

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be agreed to by action of the governing body of the political subdivision and by referendum of the employees as herein provided, before submission to the electorate.

Same; notice, supplemental statement to employees of rights and liabilities.

The notice of referendum required by section 218 (d) (3) (c) of title II of the social security act to be given to employees shall be accompanied by, or shall, not less than 40 days prior to the referendum, be supplemented by a statement in such manner, form and detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject if their services are included under an agreement under this act. In case a 90 day period after notice of referendum shall lapse before changes in a retirement system shall have been enacted or approved as above provided, then the date of referendum shall be automatically extended to not less than 40 days after such enactment or adoption.

Governor's certificate.

(b) Upon receiving evidence satisfactory to him that, with respect to any such referendum, the conditions specified in section 218 (d) (3) of title II of the social security act and the conditions specified in this act, as amended, have been met, the governor or an official delegated by him shall so certify to the secretary of health, education, and welfare.

HISTORY: Add. 1955, p. 48, Act 39, Imd. Eff. Apr. 21;—Am. 1957, p. 183, Act 161, Eff. Sep. 27;—Am. 1958, p. 242, Act 199, Imd. Eff. Apr. 21;—Am. 1961, p. 85, Act 83, Eff. Sep. 8.

Act 165, 1954, p. 381; Imd. Eff. May 4.

AN ACT to provide for a retirement system for judges of the probate courts of this state; to provide for the retirement of judges due to age or disability; to provide for annuities; to create a probate judges retirement board and prescribe its powers and duties; to provide for the collection of filing fees in certain cases for the payment of annuities and to establish certain funds in connection therewith; to provide for contributions thereto by probate judges; and to provide penalties for failure to comply with the provisions of this act.

The People of the State of Michigan enact:

38.901 Probate judges' retirement system; creation, administration.

Sec. 1. The state of Michigan probate judges retirement system, hereinafter called the retirement system, is hereby created and established. The administration and management of the retirement system, the responsibility for making effective the provisions of this act, and the authority to make all rules and regulations therefor are hereby vested in the retirement board.

HISTORY: New 1954, p. 381, Act 165, Imd. Eff. May. 4.

CITED IN OTHER SECTIONS: Sections 38.901 to 38.933 are cited in §§ 38.13, 38.853, and 38.1102.

38.902 Probate judges' retirement system; definitions.

Sec. 2. The following words and phrases as used in this act shall, unless a different meaning is plainly required by the context, have the following meanings:

(a) "Board" shall mean the retirement board provided for in this act.

(b) "Judge" shall mean any duly elected or appointed probate judge of this state. "Judge" includes the person holding the position of deputy court administrator for probate courts.

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(c) "Presiding judge" shall mean the judge elected to that position in accord with section 53 of chapter 1 of Act No. 288 of the Public Acts of 1939, as amended, being section 701.53 of the Compiled Laws of 1948.

(d) "Member" shall mean any probate judge who shall, subject to the provisions of this act, agree to become a member of the retirement system.

(e) "New member" shall mean any member without prior service credited to his service account.

(f) "Original member" shall mean any member with prior service credited to his service account.

(g) "Service" shall mean service performed as a probate judge, as herein defined.

(h) "Membership service" shall mean service performed on or after July 1, 1954, as a member.

(i) "Prior service" shall mean service performed prior to July 1, 1954, as a probate judge.

(j) "Beneficiary" shall mean any person, except a retirant, who is in receipt of or who has entitlement to an annuity, or other benefit provided by this act.

(k) "Annuity" shall mean an annual amount, payable by the retirement system, throughout the life of a person, or for a shorter period as provided in this act. All annuities shall be paid in equal monthly installments.

(l) "Annuity reserve" shall mean the present value of an annuity, or benefit in lieu of an annuity, computed according to such mortality tables and regular interest, as the board shall adopt.

(m) "Regular interest" shall be such rate of interest compounded annually, as the board shall determine.

(n) "Final salary" shall mean actual salary of a member at the time of his retirement.

(o) "Accumulated contributions" shall mean the sum of all amounts contributed by a member and credited to his individual account in the annuity savings fund, together with regular interest thereon.

(p) The masculine gender shall include the feminine gender and the singular number in relation to persons shall include the plural number.

(q) "Retirant" shall mean any member who retires with an annuity payable by the retirement system.

HISTORY: New 1954, p. 381, Act 165, Imd. Eff. May 4;—Am. 1965, p. 714, Act 364, Eff. Mar. 31, 1966;—Am. 1967, p. 146, Act 117, Imd. Eff. Jun. 27.

38.903 Retirement board; membership.

Sec. 3. The retirement board shall consist of 5 trustees as follows: (1) The state treasurer, (2) the attorney general, (3) the deputy legislative auditor general, (4) 2 trustees to be appointed by the governor by and with the consent of the senate.

HISTORY: New 1954, p. 382, Act 165, Imd. Eff. May 4;—Am. 1965, p. 715, Act 364, Eff. Mar. 31, 1966.

CITED IN OTHER SECTIONS: The above section is cited in § 16.206.

38.904 Retirement board; trustees, appointment, terms, compensation, oath of office.

Sec. 4. The term of office for the trustee so appointed by the governor shall be for the period of 3 years. The trustees shall serve without compensation for their services as such. Each trustee shall, before assuming his duties as trustee, take an oath of office which shall be immediately filed with the office of the secretary of state.

HISTORY: New 1954, p. 382, Act 165, Imd. Eff. May 4.

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38.905 Retirement board; vacancies.

Sec. 5. In event a vacancy occurs on the board, for any reason, the vacancy shall be filled, for the unexpired term, in the same manner as the position was previously filled.

HISTORY: New 1954, p. 382, Act 165, Imd. Eff. May 4.

38.906 Retirement board; quorum.

Sec. 6. Four trustees shall constitute a quorum at any meeting of the board. Each trustee shall be entitled to 1 vote and at least 3 concurring votes shall be necessary for a decision by the trustees at any meeting of the board.

HISTORY: New 1954, p. 382, Act 165, Imd. Eff. May 4.

38.907 Retirement board; officers; executive secretary and assistants; state treasurer as custodian of funds; attorney general as legal advisor; actuary; medical examiner.

Sec. 7. The board shall elect from its number a chairman and a chairman pro tem.

(a) The executive secretary of the state employees' retirement system, created by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.42, inclusive, of the Compiled Laws of 1948, shall be the executive secretary of the retirement system created by this act. The executive secretary shall, with the approval of the board and subject to the rules and regulations of the civil service commission, employ such administrative, technical and clerical employees as may be required for the proper operation of the retirement system.

(b) The state treasurer shall be treasurer of the retirement system and the custodian of its funds. All bonds and other securities purchased according to the provisions of this act shall be forthwith placed in the hands of the state treasurer and it shall be his duty to collect the principal thereof and the interest thereon, as the same shall become due and payable, and to place the same when so collected into the funds of the retirement system. The state treasurer shall be the custodian of all other funds of the retirement system. The state treasurer shall give a separate and additional bond in such amount as may be fixed by the board, not to exceed $100,000.00, which bond shall be approved by the board and the attorney general. Such bond shall be conditioned upon the faithful performance of his duties as custodian of the funds of the retirement system provided for herein. The cost of such bond shall be paid out of the expense fund of the retirement system and it shall be deposited with the secretary of state and kept in his office.

(c) The attorney general shall be the legal advisor to the board and shall act as its attorney and shall represent the board in all litigation to which it may be a party. The board shall be entitled to rely upon any opinion rendered to it by the attorney general.

(d) The administration shall comply with the laws of this state with respect to the submission of budgets for its administration.

(e) The board shall procure such actuarial, medical and/or psychiatric services as required to carry out the provisions of this act. Wherever in this act the term "medical director" is used it shall mean such medical or psychiatric examiner as herein provided.

HISTORY: New 1954, p. 382, Act 165, Imd. Eff. May 4.

38.908 Retirement board; responsibility for mortality and other tables, rate of regular interest, actuarial data.

Sec. 8. The board shall adopt such mortality tables and other tables of experience, and such rate of regular interest, as are necessary in the proper operation of the retire-

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ment system. The executive secretary shall keep, or cause to be kept, in convenient form, such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system.

HISTORY: New 1954, p. 383, Act 165, Imd. Eff. May 4.

38.909 Retirement board; annual report to governor.

Sec. 9. The board shall render a report to the governor and the state legislature on or before the 15th day of January of each year showing the fiscal transactions of the retirement system for the year ended the preceding 30th day of June, and the last balance sheet showing the financial condition of the retirement system.

HISTORY: New 1954, p. 383, Act 165, Imd. Eff. May 4.

38.910 Service credit; probate court administrator.

Sec. 10. The board shall credit each member with the number of years and months of service to which he is entitled. The board shall allow service credit for the month in which a member's retirement becomes effective notwithstanding that the member retires from service before the end of the month. In no other case shall the board allow service credit for any month for which a member received less than 1 month's salary nor shall more than 1 month of service be credited for all service rendered in a calendar month. A person who is a member by reason of being deputy court administrator for probate courts shall not receive credit for service performed prior to the date he last becomes a member of the retirement system until he pays into the annuity savings fund an amount equal to the amount his accumulated contributions would have been had he been a member.

HISTORY: New 1954, p. 383, Act 165, Imd. Eff. May 4;—Am. 1967, p. 146, Act 117, Imd. Eff. Jun. 27.

38.911 Retirement system membership agreements; form, execution, force and effect; age limitation; court administrator.

Sec. 11. The membership of the retirement system shall consist of all probate judges who agree to become members of the retirement system. The agreement shall be in writing on forms furnished by the board and shall be executed (1) within 90 days after the effective date of this act by persons who are probate judges as of such date, and (2) within 30 days following the date they first begin their official duties as duly elected judges, by persons who become judges thereafter. In the case of the deputy court administrator for probate courts within 30 days after the effective date of this 1967 amendment or the date of his appointment to the position of deputy court administrator for probate courts, whichever is later. The agreement shall continue in full force and effect as long as such person shall remain a judge. By agreeing to become a member of the retirement system a judge voluntarily agrees to be bound by and consents to all provisions of this act; the agreement shall also include as a provision that the member agrees that in the event of adjudication of mental incompetency of the member, any guardian who may be appointed shall have the power and authority for the purposes of this act to complete and execute any forms required to retire the member according to the provisions of this act. In event any judge fails to agree to become a member he shall not again have the right to become a member. The membership of the retirement system shall not include any person who hereafter first becomes a judge on or after his attainment of age 60 years. However, this age limitation shall not apply to any judge holding office at the effective date of this act. In case of doubt, the board shall decide the membership status of any judge. Such decision shall, in the absence of bad faith, be conclusive.

HISTORY: New 1954, p. 383, Act 165, Imd. Eff. May 4;—Am. 1965, p. 715, Act 364, Eff. Mar. 31, 1966;—Am. 1967, p. 147, Act 117, Imd. Eff. Jun. 27.

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38.912 Retirement requirements; annuity; election of option.

Sec. 12. On and after December 31, 1957, any member (1) who has attained age 60 or over and has 20 or more years of continuous service credited to him or (2) who has attained age 65 years or over and has 16 years or more of service credited to him of which the last 6 were continuous service, or (3) who has attained age 70 or over and has 12 or more years of service credited to him of which the last 6 were continuous shall be retired by the board upon his written application to the governor and the board, setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. A member retiring from service under this section shall receive a retirement annuity provided for in section 16 of this act, and he shall have the right to elect an optional retirement annuity as provided for in section 17 of this act. Except for retirement under section 18 of this act, no member shall be permitted to retire until he either (1) has been a contributing member for at least 5 years, or (2) has paid into the annuity savings fund an amount equivalent to the amount that would have been credited to him had he made contributions for 5 years prior to his retirement based on his final salary as defined in section 2 of this act, but not exceeding the sum of $720.00 in any year.

HISTORY: New 1954, p. 384, Act 165, Imd. Eff. May 4;—Am. 1957, p. 428, Act. 294, Eff. Sep. 27;—Am. 1965, p. 715, Act 364, Eff. Mar. 31, 1966.

38.913 Service credit; maximum contribution.

Sec. 13. No service shall be credited to a member for more than 24 years, nor shall a member be required to contribute for more than 24 years.

HISTORY: New 1954, p. 384, Act 165, Imd. Eff. May 4.

38.914 Retirement system; membership; termination, reinstatement; failure to retire.

Sec. 14. A judge's membership in the retirement system shall terminate (1) whenever he becomes a retirant; or (2) whenever he forfeits his membership under the provisions of section 18 of this act; or (3) at the end of the judicial term in which he attains age 70 years; or (4) on his ceasing to be a judge as defined in section 2, subdivision (b) of this act; or (5) upon his failure to pay his contributions as provided in section 21 of this act. Except in the case of an annuity becoming payable, as provided in this act, on account of his membership in the retirement system, all prior service and membership service which may have been credited to the said judge shall be forfeited by him at the time his membership terminates. In the event he again becomes a judge before having attained age 60 years, he may again become a member, subject to the provisions of section 11 of this act; and in the event he again becomes a member within a period of 8 years from and after the date his membership last terminated, all prior service and membership service last forfeited by him shall be restored to his credit, provided he pays into the annuity savings fund the amount of accumulated contributions which may have been previously refunded to him, together with regular interest thereon computed from the date of withdrawal to the date of repayment. In the event a judge meets the service requirements, as provided in section 12 of this act, entitling him to an annuity and, having reached age 70 years, fails to retire at or before the end of the judicial term in which he attains age 70 years, he shall forfeit all of his prior service and membership service credit and all other rights under this act.

HISTORY: New 1954, p. 384, Act 165, Imd. Eff. May 4;—Am. 1965, p. 716, Act 364, Eff. Mar. 31, 1966.

38.915 Member ceasing to be judge; election to remain member.

Sec. 15. Any member who ceases to be a judge for any reason except his disability retirement under section 18 of this act and having 12 or more years of continuous service credited to him may elect to remain a member of the retirement system for the exclusive purposes only of (1) receiving an annuity as provided for in section 16 of this

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act to begin upon his attainment of age 60, 65 or 70 years, and (2) to provide for the payment of an annuity provided for in section 20 of this act, if he has paid into the annuity savings fund an amount equivalent to the amount that would have been credited to him had he made contributions for 5 years.

HISTORY: New 1954, p. 384, Act 165, Imd. Eff. May 4;—Am. 1957, p. 428, Act 294, Eff. Sep. 27;—Am. 1965, p. 716, Act 364, Eff. Mar. 31, 1966.

38.916 Retirement annuity; computation, maximum.

Sec. 16. Upon a member's retirement from service as provided in this act, he shall receive a retirement annuity equal to 2.6% of his final salary multiplied by the number of years and fraction of a year, not to exceed 24 years, credited to his account. In no case shall such annuity exceed $7,200.00 per annum.

HISTORY: New 1954, p. 385, Act 165, Imd. Eff. May 4;—Am. 1956, p. 177, Act 89, Eff. Aug. 11;—Am. 1957, p. 429, Act 294, Eff. Sep. 27;—Am. 1965, p. 716, Act 364, Eff. Mar. 31, 1966.

38.917 Regular retirement annuity; options.

Sec. 17. Any member, prior to the effective date of his retirement under section 12 or section 18 of this act, may elect to receive his retirement annuity payable throughout his life and terminating at his death, herein called a regular retirement annuity; or he may elect to receive the actuarial equivalent of his regular retirement annuity, at that time, in a reduced retirement annuity payable throughout his life, and nominate a beneficiary, in accordance with the provisions of option 1, 2 or 3, as set forth below. In the event any such member fails to elect an option as herein provided, he shall be presumed to have automatically elected to receive his retirement annuity as a regular retirement annuity.

Option 1. Under this option a retirant who dies before he has received in payment of his reduced retirement annuity an aggregate amount equal to his accumulated contributions standing to his credit in the annuity savings fund at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of annuity payments received by him shall be paid in a single sum to such person or persons as he shall have nominated by written designation duly executed and filed with the board. In the event there be no such designated person or persons surviving the retirant, such difference, if any, shall be paid to his legal representative; or

Option 2. Under this option, upon the death of the retirant his reduced retirement annuity shall be continued throughout the life of and paid to such person having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board prior to the date of his retirement; or

Option 3. Under this option, upon the death of the retirant 1/2 his reduced retirement annuity shall be continued throughout the life of and paid to such person having an insurable interest in his life as he shall have nominated by written designation duly executed and filed with the board prior to the date of his retirement.

HISTORY: New 1954, p. 385, Act 165, Imd. Eff. May 4;—Am. 1965, p. 716, Act 364, Eff. Mar. 31, 1966.

38.918 Disability retirement; application, medical examination; failure to apply, examination, decision of medical director, appeal to medical committee, findings; refusal to retire, forfeiture of benefits.

Sec. 18. (a) In the event a member who has 10 or more years of service credited to him becomes physically or mentally totally and permanently incapacitated to perform his judicial duties, he shall be retired by the board upon his written application for retirement filed with the governor and the board: Provided, That after a medical examination of the said member, made by or under the direction of the medical director, the medical director certifies in writing to the board (1) that the said member is physically

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or mentally totally incapacitated to perform his judicial duties; and (2) that such incapacity is likely to be permanent; and (3) that said member should be retired.

(b) In the event a member who (1) has 10 or more years of service credited to him and (2) becomes physically or mentally totally and permanently incapacitated to perform his judicial duties, and (3) fails to apply for retirement as provided in subdivision (a) of this section, an application for his retirement may be filed with the governor and the board by the presiding judge or by the board of commissioners of the state bar of Michigan. The said member, by agreeing to become a member of the retirement system, agrees to submit himself to a medical examination to be made by or under the direction of the medical director. If, after a medical examination of the said member, made by or under the direction of the medical director, the medical director certifies in writing to the board (1) that the said member is physically or mentally totally incapacitated to perform his judicial duties, and (2) that such incapacity is likely to be permanent, and (3) that the said member should be retired, the board may request him to retire. Due notice of the board's decision shall be given the said member and the governor and the said member shall agree to retire upon such request: Provided, That the said member, within 30 days following the giving of the said notice, shall have the right of appeal to a medical committee consisting of 3 physicians, 1 of whom is to be designated by the board, 1 by the said member, and 1 by the first 2 physicians so designated. After a medical examination of the said member, made by or under the direction of the medical committee, the medical committee shall report its findings to the board. The majority opinion of the medical committee, filed in writing with the board, shall be binding on the board and the said member. In the event the said member should refuse to submit to medical examinations as herein required, and should such refusal continue for 90 days; or should the decision of the board or the medical committee, if a medical committee is requested, be that the said member should retire and should he fail to retire within 60 days following the date he is notified of the said decision by registered mail sent to his last known residence address, he shall forfeit for himself and his heirs all rights in and to any and all benefits, excepting the refund of his accumulated contributions, accrued or accruing under this act, and he shall not again become a member or beneficiary of the retirement system.

(c) Any member retiring from service under this section shall receive a retirement annuity provided for in section 16 of this act.

HISTORY: New 1954, p. 386, Act 165, Imd. Eff. May 4.

38.919 Retirement annuity after age sixty; computation, option.

Sec. 19. Upon retirement from service as provided in section 12 of this act, an eligible member who has attained age 60 years or over shall receive a retirement annuity computed according to the provisions of section 16 of this act, and he shall have the right to select an option provided for in section 17 of this act.

HISTORY: New 1954, p. 386, Act 165, Imd. Eff. May 4;—Am. 1957, p. 429, Act 294, Eff. Sep. 27.

38.920 Member ceasing to be judge or death before retirement; refund of contributions; payment of annuity to surviving spouse, minor dependent children.

Sec. 20. (a) Should any member cease to be a judge prior to his retirement with an annuity payable by the retirement system, except as provided in section 15, he shall be paid the amount of his accumulated contributions standing to his credit in the annuity savings fund as he shall demand in writing on forms furnished by the board, provided it has not been forfeited under the provisions of this act.

(b) In the event any member dies before becoming entitled to receive a retirement annuity, and no annuity becomes payable by the retirement system on account of his death, his accumulated contributions standing to his credit in the annuity savings fund

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at the time of his death shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the board. In event there be no such designated person or persons surviving the member, his accumulated contributions shall be paid to his legal representative.

(c) The widow or widower of (1) any member who dies in office after January 1, 1966, or (2) any retirant who retired on or after January 1, 1958, or (3) any inactive member who is entitled to a deferred annuity under section 15 and who has attained age 60 years, and in any of the cases (1), (2) and (3) has had 10 or more years of service prior to his death, shall be entitled to apply to the retirement board for and receive an annuity in the amount of 1/2 of the retirement annuity provided for the judge in section 16. If the widow or widower at the time of the death of the judge has been his spouse at least 10 years during his judicial service, and the judge's accumulated contributions have not been refunded as provided in this act. The annuity to be paid to the widow or widower, in the cases (1) and (2) above, shall begin as of the date of the judge's death, and in the case (3) above on the date the inactive member would have been age 60, 65 or 70 years old entitling him to a deferred annuity under section 15 if he had lived until such age, if at that time the widow or widower has attained age 55 years; otherwise the annuity shall begin as of the date the widow or widower attains age 55 years, if not remarried. The annuity shall terminate upon the remarriage or death of the widow or widower. The widow or widower shall have the election of coming under the provisions of this subdivision, or of accepting the refund of accumulated contributions if the judge had not become a retirant, or of accepting an annuity provided for and elected by the judge, under an option provided for in section 17, if the judge was not retired at the time of his death. These amendatory provisions shall not diminish any vested rights heretofore established.

(d) If the widow or widower of a member is less than 55 years of age, but is otherwise entitled to receive a retirement annuity pursuant to section 20(c) and having custody of minor dependent child or children under 19 years of age of the deceased member, shall be entitled, upon application to the retirement board, to receive a retirement annuity in the amount provided above until remarriage or no longer has custody of a minor dependent child under 19 years of age. The application for and receipt of a retirement annuity pursuant to this section shall not limit the right of the widow or widower to apply for and receive a retirement annuity pursuant to section 20(c) upon attaining age 55, and upon so doing the widow's or widower's rights under this section shall terminate. The benefits established by this section shall be payable only upon application therefor and only from and after the effective date of this section.

HISTORY: New 1954, p. 386, Act 165, Imd. Eff. May 4;—Am. 1957, p. 429, Act 294, Eff. Sep. 27;—Am. 1965, p. 717, Act 364, Eff. Mar. 31, 1966;—Am. 1967, p. 147, Act 117, Imd. Eff. Jun. 27;—Am. 1969, p. 527, Act 286, Imd. Eff. Aug. 11.

38.921 Annuity savings fund; creation, purpose; contributions, amount, payment; transfer to annuity reserve fund on retirement; unclaimed contributions, transfer to income fund.

Sec. 21. (a) The annuity savings fund is hereby created. The annuity savings fund shall be the fund in which shall be accumulated, at regular interest, the contributions from the salaries of members, and from which shall be paid refunds of accumulated contributions as provided in this act.

(b) The contributions of each member shall be 6% of his salary as judge, but said contributions by any judge shall not exceed the sum of $720.00 annually. The manner by which the members' contributions provided for herein shall be paid shall be determined by rules and regulations to be adopted by the board. In event a member's contribution is not paid within 60 days after its due date he shall thereupon cease to be a member and he shall forfeit for himself and his heirs all rights in and to any and all benefits, excepting the refund of his accumulated contributions, accrued or accruing

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under this act. The board shall provide for the maintenance of an individual account for each member showing the amount of his contributions together with interest additions thereto. Upon a member's retirement from service his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund. At the expiration of a period of 3 years following the date a person ceases to be a member any balance of accumulated contributions standing to his credit in the annuity savings fund unclaimed by or on behalf of said person shall be transferred from the annuity savings fund to the income fund. In event any member's accumulated contributions are forfeited by him, as provided in this act, the same shall be transferred from the annuity savings fund to the income fund.

HISTORY: New 1954, p. 387, Act 165, Imd. Eff. May 4;—Am. 1957, p. 429, Act 294, Eff. Sep. 27;—Am. 1965, p. 717, Act 364, Eff. Mar. 31, 1966.

38.922 Annuity reserve fund; creation, purpose; contributions, computation; transfer of moneys.

Sec. 22. The annuity reserve fund is hereby created. The annuity reserve fund shall be the fund in which shall be accumulated reserves arising from the contributions made by judges, moneys received from filing fees under sections 31 and 32 of this act, and transfers from the annuity savings fund, as provided in this act, and from which shall be paid all annuities, and benefits in lieu of annuities, as provided in this act. The state of Michigan shall not be liable for and no appropriations shall be made of any moneys from the general fund of the state to the annuity reserve fund herein created; if during any fiscal year the board shall determine that said funds are insufficient to pay all pensions and other benefits due and payable in said year out of funds of the retirement system, then all pensions and other benefits shall be prorated by the retirement board for the balance of the fiscal year.

(a) Upon the basis of such mortality tables, regular interest, and other tables, as the board shall adopt, not less than once in each 5-year period the board shall engage an actuary to compute the amount of contributions which if paid annually during the entire prospective service of new members will be sufficient to provide for the annuity reserves fund required, at the time of their discontinuances from service, to cover the annuities to which they might be entitled. The aggregate amount due the annuity reserve fund shall be the total annual contributions for all new members who were members of the retirement system during the preceding fiscal year.

(b) Upon the basis of such mortality tables, regular interest, and other tables as the board shall adopt, not less than once in each 5-year period the board shall engage an actuary to compute the amount of single contributions which if paid into the annuity reserve fund would be sufficient to cover the total liability assumed by the annuity reserve fund on account of the payment of annuities, and benefits in lieu of annuities, provided for in this act for original members. The amount of such single contribution shall be amortized over a period of years, to be determined by the board, not to exceed 40 years.

(c) The executive secretary shall deposit with the treasurer of the state of Michigan, in accordance with the accounting laws of the state, the amounts of money received by him under sections 31 and 32, or under any other section of this act. When so transferred, 90% of the said amounts shall be credited to the annuity reserve fund of the retirement system and 10% of the said amounts shall be credited to the expense fund of the retirement system.

HISTORY: New 1954, p. 387, Act 165, Imd. Eff. May 4;—Am. 1957, p. 178, Act 158, Eff. Sep. 27

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38.923 Income fund; creation, purpose; transfers; payment of interest; gifts and bequests.

Sec. 23. The income fund is hereby created for the purpose of crediting regular interest on the mean amounts in the various other funds of the retirement system, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds of the retirement system may be covered. Transfers for such special requirements shall be made only when the amount in the income fund exceeds the ordinary requirements of such fund as evidenced by a resolution of the board recorded in its minutes. The board shall annually allow regular interest for the preceding year to each of the other funds of the retirement system, except the expense fund, and the amounts so allowed shall be due and payable to the said funds and shall be annually credited thereto by the board and shall be paid from the income fund: Provided, however, That interest on contributions made by members within any 1 fiscal year shall begin on the first day of the fiscal year next following and shall be computed at the end of the fiscal year. All interest, dividends, and other income derived from the deposits and investments authorized by this act shall be paid into the income fund. The retirement board is hereby authorized to accept gifts and bequests. Any funds that may come into the possession of the retirement system in such manner, or any funds which may be transferred from the annuity savings fund by reason of lack of claimant, or because of a surplus in any fund created by this act, or any other moneys the disposition of which is not otherwise provided for herein, shall be credited to the income fund.

HISTORY: New 1954, p. 388, Act 165, Imd. Eff. May 4.

38.924 Expense fund; creation, purpose.

Sec. 24. The expense fund is hereby created for the purpose of crediting income received as provided in this act to pay the administrative expenses of the retirement system, and from which shall be paid the expenses necessary in the administration of this act, exclusive of amounts payable as annuities and other benefits provided for in this act.

HISTORY: New 1954, p. 388, Act 165, Imd. Eff. May 4.

38.925 Retirement system funds; state administrative board as trustee; investments; deposits by state treasurer; disbursements.

Sec. 25. (a) The members of the state administrative board shall be the trustees of the several funds created by this act and the state administrative board shall have full power to invest same in bonds or other obligations of the United States, the state of Michigan, or of any county, city, village or school district of the state, or of any other legally constituted taxing subdivision within the state, or in mortgage bonds or notes insured by the federal housing administrator, or debentures or other obligations in which both principal and interest are insured and guaranteed by the federal government, or obligations of national mortgage associations created under the national housing act or amendments thereto, or in any investment subject to all items, conditions, limitations and restrictions imposed by the laws of the state of Michigan upon life insurance companies in making and disposing of their investments. All such bonds, or other obligations shall be purchased at current market price and all such purchases shall be authorized by resolution adopted by the administrative board. The administrative board may sell any of the said bonds, or other obligations, upon a like resolution, and the proceeds thereon shall be paid by the purchaser to the state treasurer upon delivery to him of said bonds, or other obligations, by the state treasurer.

(b) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system, not needed for immediate use, in the same manner and subject to all provisions of law with respect to the deposit of funds by the state

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treasurer, and all interest earned by such portion of the said retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him and placed to the credit of the income fund of the retirement system.

(c) There shall be kept on deposit available cash, not exceeding 10% of the total assets of the retirement system. All funds of the retirement system shall be held for the sole purpose of meeting disbursements for annuities and other benefits authorized by this act and shall be for no other purpose. The description of the various funds of the retirement system shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of moneys in the various funds of the retirement system. All disbursements from the funds of the retirement system shall be paid by the auditor general upon vouchers duly authorized by the board and bearing the signature of a duly authorized officer of the board.

HISTORY: New 1954, p. 388, Act 165, Imd. Eff. May 4;—Am. 1965, p. 718, Act 364, Eff. Mar. 31, 1966.

38.926 Retirement system members and employees; interest in investments prohibited.

Sec. 26. Except as provided herein, no member or employee of the board shall have any interest direct or indirect in the gains or profits of any investments made of retirement system funds, nor as such directly or indirectly receive any pay or emolument for his services. And no member or person connected with the board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits, or in any manner use the same except to make such current and necessary payments as are authorized by the board; nor shall any member or employee of the board become an endorser of surety or become in any manner an obligor for moneys loaned by or borrowed of the board.

HISTORY: New 1954, p. 389, Act 165, Imd. Eff. May 4.

38.927 Retirement annuity; nonassignability; exemption from legal process.

Sec. 27. The right of any person to an annuity, to the return of accumulated contributions, the annuity itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this act, and the moneys belonging to the retirement system shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, except as is specifically provided in this act.

HISTORY: New 1954, p. 389, Act 165, Imd. Eff. May 4;—Am. 1965, p. 718, Act 364, Eff. Mar. 31, 1966.

38.928 Retirement system records; error or change, correction.

Sec. 28. Should any change or error in the records result in any person receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the board shall correct such error and as far as is practicable shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

HISTORY: New 1954, p. 389, Act 165, Imd. Eff. May 4;—Am. 1965, p. 719, Act 364, Eff. Mar. 31, 1966.

38.929 Retirement system records; falsification, penalty.

Sec. 29. Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a misdemeanor and shall upon conviction thereof be punished by imprisonment in the county jail for not more than 90 days or by a fine of not more than $100.00, or by both such fine and imprisonment.

HISTORY: New 1954, p. 389, Act 165, Imd. Eff. May 4.

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38.930 Retirement; creation of vacancy.

Sec. 30. Upon the retirement of any member under this act, the judicial position held by him shall be deemed vacant, and such vacancy shall be filled as prescribed by law.

HISTORY: New 1954, p. 389, Act 165, Imd. Eff. May 4.

38.931 Fees for filing certain probate petitions; exceptions.

Sec. 31. At the time of filing a petition for the appointment of an administrator of the estate of a deceased person, either general or special, domiciliary or ancillary; or a petition for the probate of a will of a deceased person, either domestic or foreign; or a petition for the change of name of an adult; or a petition for determination of heirs; or a petition for the adoption of a minor, in the several probate courts of this state, there shall be paid to the register of said court by the moving party the sum of $5.00 as a filing fee. No filing fee shall be paid or collected where a petition is filed under sections 38 and 41 of chapter 8 of Act No. 288 of the Public Acts of 1939, as amended, being sections 708.38 and 708.41 of the Compiled Laws of 1948.

HISTORY: New 1954, p. 389, Act 165, Imd. Eff. May 4;—Am. 1957, p. 430, Act 294, Eff. Sep. 27;—Am. 1965, p. 719, Act 364, Eff. Mar. 31, 1966.

38.932 Fees for filing certain probate petitions; payment, deposit.

Sec. 32. The register of probate shall, on or before the 5th day of the month following receipt of said fees, pay over to the county treasurer all fees so received by him during the preceding month, and the county treasurer shall, within 5 days thereafter transmit said amount of fees so collected to the executive secretary of the retirement system, all in accordance with the established rules and regulations governing accounting procedures for counties. The executive secretary shall deposit said fees with the treasurer of the state of Michigan as provided in section 22 (c) of this act.

HISTORY: New 1954, p. 390, Act 165, Imd. Eff. May 4;—Am. 1957, p. 179, Act 158, Eff. Sep. 27.

38.933 Probate judges' retirement act; short title.

Sec. 33. This act shall be known and may be referred to and cited as the "Probate judges retirement act".

HISTORY: New 1954, p. 390, Act 165, Imd. Eff. May 4.

Act 261, 1957, p. 319; Eff. Sep. 27.

AN ACT for the creation, maintenance and administration of a legislative members' and presiding officers' retirement system; to provide retirement allowances to the participants thereof, and survivors' allowances and other benefits to their beneficiaries upon death; and to authorize and make appropriations therefor. Am. 1960, p. 122, Act 113, Eff. Aug. 17.

The People of the State of Michigan enact:

38.1001 Legislative retirement system; creation, purpose.

Sec. 1. A retirement system to establish a means of providing retirement allowances, survivors' allowances and other benefits for members of the legislature and the presiding officers and their survivors and other beneficiaries, is hereby created.

HISTORY: New 1957, p. 319, Act 261, Eff. Sep. 27;—Am. 1960, p. 122, Act 113, Eff. Aug. 17.

CITED IN OTHER SECTIONS: Sections 38.1001 to 38.1060 are cited in §§ 38.1102, 600.2528, and 600.2529.

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38.1002 Michigan legislative retirement system; name.

Sec. 2. The retirement system created by section 1 shall be known as the "Michigan legislative retirement system" and all affairs and business of the system shall be transacted in such name.

HISTORY: New 1957, p. 319, Act 261, Eff. Sep. 27.

38.1003 Construction of terms.

Sec. 3. For the purposes of this act the words specified in any section or sections shall have the meanings set forth in such section or sections, unless different meanings are plainly indicated by their context.

HISTORY: New 1957, p. 319, Act 261, Eff. Sep. 27.

38.1004 System; definition.

Sec. 4. "System" means the Michigan legislative retirement system.

HISTORY: New 1957, p. 319, Act 261, Eff. Sep. 27.

38.1005 Board; definition.

Sec. 5. "Board" means the board of trustees of the system.

HISTORY: New 1957, p. 319, Act 261, Eff. Sep. 27.

38.1006 Member; definition.

Sec. 6. "Member" means members of the legislature of the state of Michigan and the presiding officer of either body thereof.

HISTORY: New 1957, p. 319, Act 261, Eff. Sep. 27.

38.1007 Eligible member; definition.

Sec. 7. "Eligible member" means any member other than one who has elected not to participate in the system as provided in section 18 of this act.

HISTORY: New 1957, p. 319, Act 261, Eff. Sep. 27.

38.1008 Participant; definition.

Sec. 8. "Participant" means any member who is participating in the system.

HISTORY: New 1957, p. 319, Act 261, Eff. Sep. 27;—Am. 1970, p. 639, Act 237, Imd. Eff. Jan. 1, 1971.

38.1009 Salary; definition.

Sec. 9. "Salary" means the compensation common to all members of the legislature exclusive of travel allowance paid to a member by the state for 1 year of service as a member of the legislature and all participants, including the presiding officer of either body, shall contribute to the system based on the percentage applied to that salary or that portion of salary equal to the salary common to all members.

HISTORY: New 1957, p. 320, Act 261, Eff. Sep. 27;—Am. 1968, p. 348, Act 229, Eff. Jul. 1;—Am. 1970, p. 639, Act 237, Imd. Eff. Jan. 1, 1971.

38.1010 Military service; definition.

Sec. 10. "Military service" for the various purposes of this act shall mean service during a declared war or national emergency in the case of any person who subsequent to the effective date of this act, serves in the United States army, navy, marines, air force or coast guard or any women's auxiliary thereof. Any participant who enters military service shall receive full credit for service for the purpose of this act for the remainder of the term for which he was elected as a member.

HISTORY: New 1957, p. 320, Act 261, Eff. Sep. 27.

38.1011 Service; definition.

Sec. 11. "Service" means the period beginning on the date any person first became a member, whether such date is prior or subsequent to September 27, 1957 and ending on the date of termination of service as a member or death in office but excluding all periods during which the member was not a member or during any time when certified as elected but not seated. In no case shall any participant be given service credit

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under the retirement system created by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948, for any period for which he is given service credit under this act. Service credit for any term shall end on the date service terminated or in case of death during term, at end of term if payment by grant of a sum equal to the salary for the balance of the term was approved or to the date covered by the grant, whichever period is the lesser. Legislative service used to qualify for and receive retirement allowance under Act No. 240 of the Public Acts of 1943, as amended, shall not be credited as service for the purpose of this act.

Any acts, ordinances or charter provisions to the contrary, participation under the legislative retirement system shall in no event disqualify any employee of a political subdivision of the state from membership in any pension or retirement system established in any political subdivision of the state wherein such membership is by reason of the compensation he receives from the political subdivision; nor shall participation under this system in any way affect the benefits to which a member, retirant or beneficiary may be entitled under the retirement system established in any political subdivision.

HISTORY: New 1957, p. 320, Act 261, Eff. Sep. 27;—Am. 1958, p. 55, Act 53, Eff. Sep. 13;—Am. 1970, p. 639, Act 237, Imd. Eff. Jan. 1, 1971.

38.1012 Retirement allowance; definition.

Sec. 12. "Retirement allowance" means a series of equal monthly payments payable at the end of each calendar month while he is a retirant based upon credited service and salary for the service last rendered. The first payment shall be prorated for any fraction of a month to the end of the first month but no payment shall be made for any fraction of a month remaining at the time of death.

HISTORY: New 1957, p. 320, Act 261, Eff. Sep. 27;—Am. 1970, p. 640, Act 237, Imd. Eff. Jan. 1, 1971.

38.1013 Retirant; definition.

Sec. 13. "Retirant" means a retired participant receiving a retirement allowance from this system.

HISTORY: New 1957, p. 320, Act 261, Eff. Sep. 27;—Am. 1970, p. 640, Act 237, Imd. Eff. Jan. 1, 1971.

38.1013a Survivor; eligible children; definitions.

Sec. 13a. "Survivor" means the eligible surviving spouse or eligible children of a participant or retirant. "Eligible children" means unmarried children of a participant or retirant:

(a) Under the age of 18.

(b) Over the age of 18 with mental or physical handicap which precludes engaging in any gainful occupation.

(c) Over the age of 18 and regularly attending high school or an accredited institution of higher learning until attaining the age of 25 or no longer regularly attending school, whichever first occurs.

HISTORY: Add. 1960, p. 122, Act 113, Eff. Aug. 17;—Am. 1970, p. 640, Act 237, Imd. Eff. Jan. 1, 1971.

38.1014 Refund beneficiary; definition; failure to designate.

Sec. 14. "Refund beneficiary" means the person or persons named by a participant or retirant in writing and filed in the office of the system to receive any refund of a participant's contributions upon his death if no survivor's retirement allowance is payable under the provisions of this act. In the absence of a valid beneficiary designation, refund payment shall be made only in accordance with the order of the probate court.

HISTORY: New 1957, p. 320, Act 261, Eff. Sep. 27;—Am. 1960, p. 122, Act 113, Eff. Aug. 17;—Am. 1970, p. 640, Act 237, Imd. Eff. Jan. 1, 1971.

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38.1015 Actuarial tables; definition.

Sec. 15. "Actuarial tables" means such tables as are from time to time adopted by the board for computing allowances based upon the experience of the system as recommended by the actuary.

HISTORY: New 1957, p. 320, Act 261, Eff. Sep. 27;—Am. 1970, p. 640, Act 237, Imd. Eff. Jan. 1, 1971.

38.1016 Prescribed rate of interest; definition.

Sec. 16. "Prescribed rate of interest" means such rate or rates as shall from time to time be prescribed by the board.

HISTORY: New 1957, p. 320, Act 261, Eff. Sep. 27;—Am. 1968, p. 154, Act 99, Imd. Eff. Jun. 7.

38.1017 Fiscal year; definition.

Sec. 17. "Fiscal year" means the period beginning on July first in any year and ending on June thirtieth of the next succeeding year.

HISTORY: New 1957, p. 321, Act 261, Eff. Sep. 27.

38.1018 Participation, eligibility; election not to participate.

Sec. 18. (1) Each person who becomes a member on or after January 1, 1959, and who is then not a participant shall become a participant in and be subject to the provisions of this system beginning upon the date such person becomes a member, unless within 90 days from said date he has filed with the board a written notice of election not to participate in this system. A notice not to participate in this system filed within the 90-day period may be withdrawn within such 90-day period. A refund of all contributions made during the 90-day period shall be made to a member who elects not to participate.

Election not to participate, effect; waiver.

(2) After the expiration of the 90-day period each person electing not to participate shall forever thereafter be ineligible to participate and to receive benefits from the system. Each person who filed with the board before Janaury 30, 1970, a written notice of election not to participate in the system, and who is still a member, may become a participant in and be subject to the provisions of this system upon his filing with the board on or before April 1, 1971, a written rescission of his notice of election not to participate. Such person shall thereupon become a participant and shall be subject to all of the provisions of this act. Upon making a contribution to the system of an amount equal to the contributions he would have made as a participant from September 27, 1957, or the date he became a member if after that date to the date of becoming a participant, with interest thereon at the rate of 5% per annum compounded annually until paid, such person shall be entitled to receive credit for service as member prior to the date of the rescission of the waiver, both before and after January 1, 1957, the same as he would have received if he had never executed the written notice of election not to participate in the system. Such accrued contributions shall be made within a period of 30 days following the date when the person becomes a participant, otherwise no credit for service prior to the date of participation shall be granted.

Participation, duration.

(3) Participation of each participant shall continue until the date upon which he becomes a retirant, dies or accepts a refund. Participation may be regained upon compliance with the provisions of this act.

HISTORY: New 1957, p. 321, Act 261, Eff. Sep. 27;—Am. 1960, p. 122, Act 113, Eff. Aug. 17;—Am. 1961, p. 241, Act 167, Eff. Sep. 8;—Am. 1970, p. 640, Act 237, Eff. Jan. 1, 1971.

38.1019 Survivors retirement allowance.

Sec. 19. Each member who is a participant shall be subject to the provisions of this act relating to survivors' retirement allowances.

HISTORY: New 1957, p. 321, Act 261, Eff. Sep. 27;—Am. 1960, p. 123, Act 113, Eff. Aug. 17;—Am. 1970, p. 641, Act 237, Eff. Jan. 1, 1971.

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38.1020 Participants' retirement fund; creation, purpose; retirement reserves, computation, financing.

Sec. 20. The participants retirement fund is created. It shall be the fund in which shall be accumulated reserves for the payment of retirement allowances to retired participants; and from which retirement allowances shall be paid to retired participants, as provided in this act. Upon the basis of such mortality and other experience tables, and the prescribed rate of interest, as the board shall from time to time adopt, the actuary shall annually compute the retirement reserves (1) for retirement allowances being paid retirants and (2) covering service rendered and to be rendered by participants. It is the intention of this act that the retirement reserves shall be financed by other revenues to the fund and annual appropriations determined according to subsections (a), (b) and (c) of this section.

(a) The state's appropriation for current service shall be an amount which, if paid annually during the future service of participants, will be sufficient to provide the reserves at the time of their retirement, after allowing for the net contributions to the participants savings fund to be made by the participants, for the future service portions of the retirement allowances to which the participants might become entitled.

(b) The state's appropriation for participants' accrued service shall be an amount which if paid annually over a period of years determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the accrued service portions of the retirement allowances to which the participants might become entitled.

(c) The state's appropriation for retirement allowances being paid from the participants retirement fund shall be an amount which if paid annually over a period of years determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the retirement allowances.

HISTORY: New 1957, p. 321, Act 261, Eff. Sep. 27;—Am. 1970, p. 641, Act 237, Eff. Jan. 1, 1971.

38.1021 Participants' savings fund; creation, purpose; contributions, computation, payroll deduction, members' agreement presumed; transfer on retirement or death.

Sec. 21. The participants savings fund is created. It shall be the fund in which shall be accumulated the contributions made by participants toward the financing of their retirement allowances and from which shall be made transfers to the participants retirement fund and refunds of contributions as provided in this act. Each participant shall make contributions to the participants savings fund of 8% of each payment of salary received by him for service as a member on and after September 27, 1957 but not exceeding 20 years.

The contributions shall be made by payroll deductions and each participant is deemed to consent and agree to the deductions as a condition of his participation in the system. Upon the retirement of a participant his accumulated contributions shall be transferred to the participants retirement fund. Upon the death of a participant, if a survivor's retirement allowance becomes payable on account of his death, his accumulated contributions shall be transferred to the survivors retirement fund.

HISTORY: New 1957, p. 322, Act 261, Eff. Sep. 27;—Am. 1960, p. 123, Act 113, Eff. Aug. 17;—Am. 1968, p. 348, Act 229, Eff. Jul. 1;—Am. 1970, p. 642, Act 237, Eff. Jan. 1, 1971.

38.1022 Survivors' retirement fund; creation, purpose.

Sec. 22. The survivors retirement fund is created. It shall be the fund in which shall be accumulated reserves for the payment of retirement allowances to survivors, as provided in this act, and from which shall be paid the retirement allowances.

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Contributions by participants.

(a) Each participant shall make contributions to the survivors retirement fund of 1% of each payment of salary received by him for service as a member on and after the effective date of this act, but not exceeding 20 years. The contributions shall be made by payroll deductions and each participant is deemed to consent and agree to the deductions as a condition of his participation in the system.

Retirement reserves; state appropriations.

(b) Upon the basis of such mortality and other experience tables, and the prescribed rate of interest, as the board shall from time to time adopt, the actuary shall annually compute the retirement reserves for retirement allowances being paid survivors, and to be paid survivors upon the deaths of participants and retirants, as provided in this act. It is the intention of this act that the retirant reserves shall be financed by appropriations to be made by the state, determined according to paragraphs (1), (2) and (3) of this subsection.

(1) The state's appropriation for survivors' retirement allowances to be paid upon the death of participants shall be an amount which will provide the net reserves, after allowing for participants' contributions to the survivors retirement fund and transfers to be made to the fund from the participants savings fund, for retirement allowances to be paid survivors of participants who will probably die during the next ensuing fiscal year.

(2) The state's appropriation for survivors' retirement allowances to be paid upon the death of retirants shall be an amount determined according to the financing methods provided for in subsections (a) and (b) of section 20.

(3) The state's appropriation for survivors' retirement allowances being paid from the survivors retirement fund shall be an amount which if paid annually over a period of years to be determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the retirement allowances.

HISTORY: New 1957, p. 322, Act 261, Eff. Sep. 27;—Am. 1960, p. 123, Act 113, Eff. Aug. 17;—Am. 1968, p. 348, Act 229, Eff. Jul. 1.

38.1022a Income fund; creation, purpose; payment of interest; dividends.

Sec. 22a. An income fund is hereby created for the purpose of crediting regular interest on amounts in the participants' retirement fund and the survivors' retirement fund. The retirement board annually shall allow regular interest for the preceding year to the participants' retirement fund and to the survivors' retirement fund and the amount so allowed shall be due and payable to the funds and shall be credited annually thereto by the retirement board and paid from the income fund. All income interest and dividends derived from the deposits and investments authorized by this act shall be paid into the income fund.

HISTORY: Add. 1960, p. 124, Act 113, Eff. Aug. 17.

38.1023 Retirement allowance; eligibility.

Sec. 23. (1) A participant whose service is terminated and who meets the following requirements shall be entitled to a retirement allowance:

(a) He has 8 years of service or has 6 years of service and has been elected, qualified and seated 4 times for full or partial terms if a member of the house or 2 times if a member of the senate elected on or after November 8, 1966.

(b) He has attained the age of 60 years or has become permanently and totally disabled.

(c) He has filed with the board a written application for a retirement allowance in which is stated his years of service, the salary for the last year he served prior to his application and the date he desires to be retired which date shall be not more than 90 days subsequent to the execution and filing of the application.

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Member not entitled to allowance.

(2) A participant shall not be entitled to receive nor accrue a retirement allowance while he is a member. Each person receiving benefits under this act consents and agrees as a condition of receiving such benefits that benefits of any nature shall not be paid or accrued while the person is a member.

Allowance, amount.

(3) A retirant shall be entitled to an annual retirement allowance of 26% of the salary for the year ending the service stated in his application for the first 8 years of service plus 3% for each of the next 8 years of service. Any fraction of a year of service in excess of 8 years shall be prorated. If the retirant has less than 8 years of service but qualifies by the election method, the retirement allowance shall be that proportion of 26% that his years of service and fraction thereof bears to 8 years. Years of service listed in the application need not be consecutive but shall have been rendered prior to payment of the retirement allowance. In no case shall a retirement allowance exceed 50% of the salary for the year ending the service covered by the application.

Disability, determination.

(4) A participant shall be considered permanently and totally disabled only if the board has received a certification by at least 2 licensed physicians appointed by the board stating that the applicant is totally disabled and that such disability is likely to be permanent.

HISTORY: New 1957, p. 323, Act 261, Eff. Sep. 27;—Am. 1960, p. 124, Act 113, Eff. Aug. 17;—Am. 1970, p. 642, Act 237, Eff. Jan. 1, 1971.

38.1023a Retirement before age sixty; retirement allowance, computation.

Sec. 23a. A participant who attains the age 55 years and who meets all of the requirements of section 23 except age, may retire upon application to the board as provided in section 23. Upon approval of his application by the board, he shall receive a retirement allowance computed as provided in section 23 reduced by an amount which is 0.5% of the retirement allowance multiplied by the number of months or fraction of a month his age at retirement is under 60 years.

HISTORY: Add. 1960, p. 124, Act 113, Eff. Aug. 17;—Am. 1970, p. 642, Act 237, Eff. Jan. 1, 1971.

38.1023b Retirant again becoming a member; participation.

Sec. 23b. (1) If a retirant again becomes a member, he shall not again become a participant unless within 90 days from the date of the beginning of his subsequent service he files with the board a written notice of election to again become a participant and complies with all the provisions of this section. After the expiration of the 90-day period, a retirant again becoming a member who does not elect to again become a participant is forever barred from again becoming a participant. During the 90-day period, the retirement allowance shall not be paid but the contributions required by this act shall be deducted. The contributions shall be refunded if no election to again become a participant is made.

Conditions of participation.

(2) If the retirant elects to again become a participant, his subsequent participation in the system shall be subject to the following conditions in addition to any other required of participants by this act:

(a) During his period of service as a member, payment of his retirement allowance shall not be made or accrued.

(b) He shall repay to the system all moneys received from the system with interest at the rate of 5% per annum compounded annually within 30 days after his election to participate and while he is a participant. Failure to make the repayment within such time voids the election to participate.

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(c) All prior applications for retirement shall be abrogated.

Retirant not participating.

(3) If a retirant again becomes a member and he declines to again become a participant, he shall not be entitled to a retirement allowance and payment of his retirement allowance shall not be made or accrued during his subsequent service. Upon termination of his subsequent service, payment of his retirement allowance shall be resumed effective as of the date of termination of the subsequent service without change because of such subsequent service.

HISTORY: Add. 1968, p. 349, Act 229, Eff. Jul. 1;—Am. 1970, p. 643, Act 237, Imd. Eff. Jan. 1, 1971.

38.1024 Survivors' retirement allowance; commencement.

Sec. 24. (1) Unless otherwise provided by the retirant or participant pursuant to this act, the surviving spouse of a deceased retirant or participant having the service qualifications required by section 23 shall be entitled to receive a survivor's retirement allowance payable from the survivor's retirement fund. Such retirement allowance shall be payable beginning (1) on the day next following the date of death of such participant or retirant if the survivor shall then have attained the age of 55 years, or (2) if such survivor is under age 55 on such date, immediately upon his attainment of such age. If an eligible child or children shall also survive the member, and such child or children are under the care of the eligible survivor, the survivor's retirement allowance shall begin as of the day next following the date of death without regard to whether the survivor shall have attained the age of 55 years. If the eligible child or children, or any of them, are not under the care of the eligible surviving spouse, at the specific designation of the deceased retirant or participant as provided in this act, a retirement allowance shall begin for the benefit of the eligible child or children as of the day next following the date of death of the participant or retirant. If a participant dies during a term of office, the starting date of a survivor's retirement allowance shall not be sooner than the day next following the day to which payments are made from the grants and insurance revolving fund.

Rate; eligible children.

(2) The survivor's retirement allowance shall be equal to 66-⅔% of the retirement allowance which the deceased had earned on the date of death, as a participant, or on the date of retirement if a retirant. If an eligible survivor, regardless of age, shall have in his care an eligible child or children of the deceased, the rate of allowance shall be 75% of such retirement allowance but when all such children shall have become ineligible, the survivor's allowance shall be discontinued unless or until the survivor has attained the age of 55, at which time the survivor's allowance shall be 66-⅔% of such retirement allowance. The retirement allowance in the case of a participant shall be computed without regard to whether the participant shall have attained the age of 60 years prior to his death.

Adopted children.

(3) Adopted children for the purposes of this act shall have the same status as children of the blood only if the adoption shall have been completed prior to the date of death of the retirant or participant, otherwise children shall be ineligible hereunder.

Remarriage on death; orphans.

(4) Upon the remarriage or death of a survivor his allowance shall terminate. If there is no survivor but there are eligible children, or if eligible children survive a survivor, then the retirement allowance otherwise payable to a survivor shall be paid in equal parts to such eligible children until they become ineligible and the total of the retirement allowance paid the other child or children shall not be diminished because of the attainment of ineligible age, marriage or death of any such child.

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Cessation of child allowance.

(5) Marriage or attainment of ineligible age, whichever event shall first occur, shall render a child of a participant ineligible for further consideration in the payment of a survivor's allowance or in the increase in the amount thereof under the provisions of this act.

Children not with surviving spouse.

(6) If the deceased retirant or participant is survived by an eligible child or children who are not under the care of an eligible surviving spouse and if the deceased has filed a written designation with the board, the survivor's allowance or any part of it shall be paid to or for the benefit of such eligible child or children in such shares and in such manner as provided in the written designation. The deceased participant or retirant may provide in the written designation that payment of all or any part of the survivor's allowance to a surviving spouse not having the care of all of such eligible children shall be deferred until such children become ineligible.

HISTORY: New 1957, p. 323, Act 261, Eff. Sep. 27;—Am. 1960, p. 124, Act 113, Eff. Aug. 17;—Am. 1968, p. 349, Act 229, Eff. Jul. 1;—Am. 1970, p. 643, Act 237, Imd. Eff. Jan. 1, 1971.

38.1025 Construction of retirement system as trust; purpose.

Sec. 25. This system shall be construed to be a trust separate from all other entities, maintained for the purpose of securing payment of benefits to the participants, retirants and their beneficiaries as provided herein.

HISTORY: New 1957, p. 324, Act 261, Eff. Sep. 27.

38.1026 Board of trustees; membership, appointment, terms, oaths of office.

Sec. 26. This system shall be administered by a board of trustees, consisting of 7 persons as follows: Three members of the house of representatives appointed by the speaker, 3 members of the senate, appointed in the same manner as standing committees of the senate are appointed, and the speaker of the house. Only participants of the system shall be eligible to serve as members on the board of trustees. Board members shall be appointed for 2-year terms.

Each person whether appointed as a trustee or becoming a trustee ex officio shall take an oath of office before the secretary of state and shall thereupon qualify as a trustee. The oath of office shall state that the person so taking such oath will diligently and honestly administer the affairs of the system, and will not knowingly violate or wilfully permit to be violated any of the provisions of this act.

HISTORY: New 1957, p. 324, Act 261, Eff. Sep. 27.

38.1027 First board of trustees; organizational meeting, election of officers.

Sec. 27. The first board shall meet as soon as practicable after the enactment of this act, at Lansing, Michigan, for the purpose of organizing this system and shall, at that meeting, elect a chairman and a vice-chairman.

HISTORY: New 1957, p. 324, Act 261, Eff. Sep. 27.

38.1028 Board of trustees; disqualification; vacancies.

Sec. 28. Any participant trustee shall be disqualified immediately upon termination of his service as a member. Any vacancy in any of the participant trusteeships shall be filled for the unexpired term in the same manner as original appointments are made.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1029 Trustees; compensation and expenses.

Sec. 29. Trustees shall serve without compensation but shall be reimbursed for any reasonable traveling expenses incurred in attending meetings of the board.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

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38.1030 Board of trustees; quorum, proxy.

Sec. 30. Each trustee shall be entitled to 1 vote on any action of the board and at least 4 concurring votes shall be necessary for any action by the board at any of its meetings. No decision or action shall become effective, unless presented and so approved by the action of the board. A trustee shall not vote by proxy, but shall be present at the meeting in order to have his vote recorded.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1031 Board of trustees; powers and duties.

Sec. 31. The board shall, in addition to all other powers and duties arising out of this act and not otherwise specifically reserved or delegated to others, have the powers and duties designated in sections 32 to 44, inclusive, of this act.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1032 Board of trustees; public meetings.

Sec. 32. The board shall hold regular meetings at least quarterly in each year and such special meetings at such times as may be deemed necessary by the chairman of the board. All meetings of the board shall be open to the public and shall be held in the office of the board.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1033 Board of trustees; authority as to retirement allowances, suspensions and refunds.

Sec. 33. The board shall consider and pass on all applications for retirement allowances and refunds, authorize the granting of all retirement allowances and refunds and suspend any payment or payments, all in accordance with the provisions of this act.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1034 Board of trustees; certification of prescribed interest rate; adoption of actuarial tables.

Sec. 34. The board shall certify in the records of the board the prescribed interest rate, and adopt all necessary actuarial tables in accordance with certifications of the actuary.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1035 Board of trustees; estimate of appropriation.

Sec. 35. The board shall submit to the governor on or before November first of each year an estimate of the amount of appropriation required for the purpose of the system for the next fiscal year.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1036 Board of trustees; investments.

Sec. 36. The board shall invest and reinvest all cash not required to meet current disbursements in securities in accordance with section 50 of this act.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1037 Board of trustees; annual medical examination of disability retirants.

Sec. 37. The board shall provide for the examination at least once a year during the continuance of such disability prior to age 60 of persons receiving disability annuities, by 1 or more licensed physicians designated by the board.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

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38.1038 Board of trustees; offices, records.

Sec. 38. The board shall establish an office or offices which provide suitable space for the meetings of the board and for the necessary administrative personnel. All books and records shall be kept in such offices.

HISTORY: New 1957, p. 325, Act 261, Eff. Sep. 27.

38.1039 Board of trustees; appointment of secretary and administrative personnel.

Sec. 39. The board shall appoint a secretary and employ such other actuarial, medical, clerical or other help as shall from time to time be required for the efficient administration of the system and determine and fix the rate of pay of such persons.

HISTORY: New 1957, p. 326, Act 261, Eff. Sep. 27.

CITED IN OTHER SECTIONS: The above section is cited in §§ 38.356 and 38.374.

38.1040 Board of trustees; record of proceedings; individual accounts; actuarial data.

Sec. 40. The board shall keep a permanent record of all proceedings of the board, a separate account for each individual member and such additional data as shall be specified by the actuary as being necessary for required calculations and valuations.

HISTORY: New 1957, p. 326, Act 261, Eff. Sep. 27.

CITED IN OTHER SECTIONS: The above section is cited in §§ 38.356 and 38.374.

38.1041 Board of trustees; audit of accounts; annual statement.

Sec. 41. The board shall have the accounts of the system audited at least biennially by the auditor general and submit an annual statement to the governor and legislature as soon as possible after the end of each fiscal year.

HISTORY: New 1957, p. 326, Act 261, Eff. Sep. 27;—Am. 1960, p. 125, Act 113, Eff. Aug. 17.

38.1042 Board of trustees; acceptance of gifts, grants and bequests.

Sec. 42. The board may accept any gift, grant or bequest of any money or securities for the purposes designated by the grantor, if such purpose is specified as providing cash benefits for some or all of the participants or retirants of the system, or if no such purpose is designated, for the purpose of reducing the costs of the state for providing benefits.

HISTORY: New 1957, p. 326, Act 261, Eff. Sep. 27.

38.1043 Board of trustees; statements to members.

Sec. 43. The board shall submit an individual statement to any participating member upon reasonable request of such member. Such statement shall indicate the amount of accumulations to the credit of such member as of the latest date practicable.

HISTORY: New 1957, p. 326, Act 261, Eff. Sep. 27.

38.1044 Board of trustees; rules and regulations.

Sec. 44. The board shall establish rules necessary for the efficient administration of the system, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1957, p. 326, Act 261, Eff. Sep. 27.

38.1045 Secretary of board; powers and duties.

Sec. 45. The secretary of the board shall be in charge of the administration of the detailed affairs of the system and, in addition to such other powers and duties as are properly delegated by the board, shall:

(a) Collect and record the receipt of all payments to the system, including participants' contributions, state contributions, interest and principal collections on invest-

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ments as the same become due and payable, and other funds accruing to the system, and immediately deposit them with the state treasurer for the account of the system.

(b) Sign vouchers requesting warrants upon the state treasurer in accordance with resolutions of the board, authorizing payment of benefits, refunds and expenses out of funds belonging to the system.

(c) Certify to the proper authority the names of the persons from whom deductions are to be made and the amounts or rates of the contributions to be so deducted.

HISTORY: New 1957, p. 326, Act 261, Eff. Sep. 27;—Am. 1970, p. 644, Act 237, Imd. Eff. Jan. 1, 1971.

38.1046 Actuary; technical advisor of board, powers and duties.

Sec. 46. The actuary shall be the technical advisor of the board and, in addition to supplying general information on technical matters, shall:

1. Make an investigation during the fourth year of operation of the system, and at least once every 5 years thereafter of the mortality, retirement, disability, separation, interest and salary rates and recommend, as a result of each such investigation, the tables to be adopted for all required actuarial calculations;

2. Make an annual valuation of the liabilities and reserves of the system, an annual determination of the amount of the required state contributions and certify the results thereof to the board.

HISTORY: New 1957, p. 326, Act 261, Eff. Sep. 27.

38.1047 State treasurer; ex-officio treasurer of retirement system, powers and duties, bond.

Sec. 47. The state treasurer shall be ex officio the treasurer of the system and shall:

1. Act as official custodian of the cash and securities belonging to the system and provide adequate safe deposit facilities for the preservation of such securities and hold such cash and securities subject to the order of the board;

2. Receive from the secretary all items of cash belonging to the system, as the same are transmitted by the secretary of the system, including participants' contributions, state contributions, interest and principal on investments and other income accruing to the system, and deposit all such amounts in a special trust fund for the account of this system, and notify the board of all such transactions semiannually;

3. Make payments for purposes specified in this act upon warrants of the auditor general issued in accordance with vouchers signed by the secretary pursuant to resolutions of the board;

4. Furnish a corporate surety bond acceptable to the board of such amount as the board shall designate. The bond shall indemnify the board against any loss which may result from any action or failure to act on the part of such treasurer or any of his agents. All reasonable charges incidental to the procuring and giving of such bond shall be paid by the board.

HISTORY: New 1957, p. 327, Act 261, Eff. Sep. 27.

38.1048 Auditor general; payroll deduction of contributions; warrants.

Sec. 48. The auditor general in drawing warrants for any items of salary on payroll vouchers for the pay of any members after the effective date of this act shall draw such warrants to participants for the amount of salary specified less the member contribution to be deducted therefrom as certified in such payroll vouchers and shall draw a warrant for the total of the member contributions so withheld from the participant on each such payroll vouchers, to the system. The warrant drawn to the system, together with the additional copy of the payroll, shall be transmitted immediately to the secretary of the board.

The auditor general is authorized and directed to draw warrants upon the state treasurer payable from the funds of this system for purposes provided for in this act upon

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the presentation of vouchers approved by the secretary of the board in accordance with resolutions of the board.

HISTORY: New 1957, p. 327, Act 261, Eff. Sep. 27.

38.1049 Payroll deductions.

Sec. 49. All payroll vouchers covering payments of salary to participants for their services shall indicate in addition to other things, (a) the amount of member contributions which are to be deducted from the salary of each participant included in such payroll vouchers, (b) the net amount payable to each participant after the deduction of such contribution, and (c) the total of all member contributions so deducted. An additional certified copy of each payroll voucher, by the state, shall be prepared and forwarded along with the original payroll voucher for transmittal to the board as herein provided.

HISTORY: New 1957, p. 327, Act 261, Eff. Sep. 27;—Am. 1970, p. 644, Act 237, Eff. Jan. 1, 1971.

38.1050 Investment of funds.

Sec. 50. The cash assets of the system in excess of the amount required for current operations shall be invested and reinvested by the board in the manner provided by law.

HISTORY: New 1957, p. 327, Act 261, Eff. Sep. 27;—Am. 1970, p. 645, Act 237, Imd. Eff. Jan. 1, 1971.

38.1050a Grants and insurance revolving fund.

Sec. 50a. (1) The grants and insurance revolving fund is created in the state treasury as a separate fund, into which shall be paid legislative grants, earnings from the fund, payments by or on behalf of members and revenue from other sources accepted by the board. Moneys appropriated to the fund shall not revert to the general fund at the close of the fiscal year but shall remain in the fund. The legislative grants in the fund shall not be expended except upon express direction of the legislature; but all other moneys in the fund may be expended for the purposes and in the manner provided in this section.

Death of member; payments; duration; beneficiaries.

(2) Upon the death of a member during his term of office the board shall pay from the fund in the manner and to the persons prescribed in this section a total amount not to exceed $30,000.00 less the deductions authorized in this section. Payments shall be made to the surviving spouse except as provided in this subsection. Payments from the fund shall begin on the last day of the seventh month following the death of the member and shall be in monthly installments of $1,000.00. Payments shall be made monthly until the happening of the first of the following events: death or remarriage of the surviving spouse or payment of the total amount. If there is no surviving spouse or if the surviving spouse dies or remarries before the total amount is paid, payments shall be made to the eligible children and shall continue until all of the children become ineligible or the total amount has been paid, whichever first occurs. If the deceased member leaves a surviving spouse and an eligible child or children not under the care of the surviving spouse and has filed a written designation with the board for division of payments under this section as between the surviving spouse and eligible child or children, payment shall be made in accordance with such designation.

Death without survivors.

(3) If, upon the death of a member during his term of office, he has no survivors who qualify under the provisions of subsection (2), the board shall pay from the fund the sum of $5,000.00 to the beneficiary entitled to the proceeds of the insurance furnished under the provisions of section 4 of Act No. 5 of the Public Acts of the Second Extra Session of 1948, as amended, being section 4.514 of the Compiled Laws of 1948.

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Member payments.

(4) Each member shall pay an amount equal to 1% of his salary to the fund to be eligible for the benefits provided in this section. In the case of members who are participants, the amount shall be collected by payroll deductions in the manner prescribed in this act. Members who are not participants or who are participants from whom contributions are not required under this act shall pay such amount in 1 annual payment on or before January 15 of each year.

Deductions.

(5) Prior to making any payments from the fund, except payments under subsection (3), the board shall deduct in each case, 10% of the total amount. In the case of a participant, such deducted amount shall be credited to the survivor's fund. In the case of a nonparticipant, such deducted amount shall be credited to the fund.

Equalization of life insurance.

(6) The board may equalize the amount of life insurance to which a retirant is eligible to carry with the highest permissible to retirants. The premium on the equalized amount of life insurance shall also be equalized and shall be paid to the board by direct payment or by payroll deduction. The proceeds from the premium payments shall be added to appropriations made to the fund for this purpose.

Rules.

(7) The board shall administer the provisions of this section in accordance with rules promulgated by it and entered in its records, which rules shall insure equitable and uniform treatment in all cases.

HISTORY: Add. 1968, p. 350, Act 229, Eff. Jul. 1;—Am. 1970, p. 645, Act 237, Eff. Jan. 1, 1971.

38.1050b Hospital and medical system coverage; purchase by board of trustees.

Sec. 50b. The board may purchase and pay the premiums on hospital and medical coverage insurance for retirants of the system and their survivors from appropriations made for this purpose to the grants and insurance revolving fund.

HISTORY: Add. 1968, p. 350, Act 229, Eff. Jul. 1;—Am. 1970, p. 646, Act 237, Imd. Eff. Jan. 1, 1971.

38.1051 Investment of retirement system funds; ownership by system; book value.

Sec. 51. All investments shall be clearly marked to indicate ownership by the system and to the extent possible shall be registered in the name of the system.

All investments shall be carried at a book value such that the yield, computed as a uniform interest rate compounded annually or semiannually, as the case may be, will remain uniform to maturity. No adjustments shall be made in investment valuations for ordinary current market price fluctuations; but reserves may be provided for anticipated losses upon redemption as determined by the board.

HISTORY: New 1957, p. 328, Act 261, Eff. Sep. 27;—Am. 1960, p. 125, Act 113, Eff. Aug. 17.

38.1052 Board of trustees and employees; interest in investments prohibited; violation of section, penalty.

Sec. 52. Except as otherwise herein provided, no trustee and no employee of the board shall have any direct interest in the income gains or profits of any investments made by the board, nor shall any such person receive any pay or emolument for services in connection with any investment. No trustee or employee of the board shall become an indorser or surety, or in any manner an obligor for money loaned or borrowed from the system. Whoever violates any of the provisions of this section shall be guilty of a misdemeanor.

HISTORY: New 1957, p. 328, Act 261, Eff. Sep. 27.

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38.1053 Participants; vested interest in refunds and salary; discharge claims of payment for services.

Sec. 53. Each participating member shall, by virtue of the payment of the member contributions required to be paid to the system, receive a vested interest in the refunds provided in section 55, and each such member in consideration of such vested interest shall be deemed to have agreed to, and authorized the deductions from the payments of salary of all contributions payable to the system in accordance with this act.

Payment of salary as prescribed by law, less the amounts of contributions provided in this act shall, together with the special vested rights in the refunds provided by this system, be a full complete discharge of all claims of payments for service rendered by a member during the period covered by any such payment.

HISTORY: New 1957, p. 328, Act 261, Eff. Sep. 27.

38.1054 Retirement system expenses; obligations of state; deposit of funds in state treasury.

Sec. 54. It is the intention that the payment of (a) the required state contributions, (b) all benefits granted under the provisions of this system and (c) all expenses in connection with the administration and operation thereof are made obligations of the state.

All income, interest and dividends derived from deposits and investments authorized by this act shall be credited to the account of this system in the state treasury and shall be used to pay benefits in accordance with the provisions of this act.

HISTORY: New 1957, p. 328, Act 261, Eff. Sep. 27.

38.1055 Cessation of service; refund of contributions; reinstatement.

Sec. 55. A participant who ceases to be a member of the legislature or a presiding officer of either body thereof, upon written request therefor, shall receive, with interest at a rate determined by the board not to exceed 5% per annum, a refund of all of his contributions standing to his credit in the participants savings fund. By accepting such refund a participant forfeits for himself and his survivors, all accrued rights and benefits in the system and loses credit for all service rendered to the state for which credit is given under this act. A participant who ceases to be a member and accepts a refund, if he again becomes a member, may receive service credit for prior service by paying to the system, within 90 days after he again becomes a member, the full amount of any moneys he has received as a refund together with interest at the prescribed rate not to exceed 5% per annum from the time of the refund until the time of repayment. If a participant's contribution to the participant's savings fund is not exhausted in benefits paid either to him or his survivor, any excess shall be paid to the beneficiary designated by the participant or if no beneficiary is designated, then to his estate.

HISTORY: New 1957, p. 328, Act 261, Eff. Sep. 27;—Am. 1961, p. 242, Act 167, Eff. Sep. 8;—Am. 1963, p. 46, Act 45, Eff. Sep. 6;—Am. 1968, p. 350, Act 229, Eff. Jul. 1;—Am. 1970, p. 646, Act 237, Imd. Eff. Jan. 1, 1971.

38.1056 Undivided interest in assets of system.

Sec. 56. The assets of the system shall be invested as one fund, and no particular person, group of persons or entity shall have any right in any specific security or property, or in any item of cash other than an undivided interest in the whole as specified in the provisions of this act as it now exists or is subsequently amended.

HISTORY: New 1957, p. 329, Act 261, Eff. Sep. 27.

38.1057 Retirement allowances; nonassignability; exemption from legal process and taxation.

Sec. 57. All retirement allowances and other benefits payable under the provisions of this act and all accumulated credits of participants in this system are unassignable

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and shall not be subject to execution, garnishment or attachment, or to taxation by the state or any of its political subdivisions.

HISTORY: New 1957, p. 329, Act 261, Eff. Sep. 27;—Am. 1961, p. 242, Act 167, Eff. Sep. 8.

38.1058 Retirement system records; falsification, penalty.

Sec. 58. Any person who knowingly makes any false statement, or falsifies or permits to be falsified any record of this system, in any attempt to defraud the system, shall be guilty of a misdemeanor.

HISTORY: New 1957, p. 329, Act 261, Eff. Sep. 27.

38.1059 Payment of benefits; commencement.

Sec. 59. No payments of benefits shall be made until on or after the first day of January, 1959.

HISTORY: New 1957, p. 329, Act 261, Eff. Sep. 27.

38.1060 Michigan legislative retirement system; short title.

Sec. 60. This act shall be known and may be cited as the "Michigan legislative retirement system".

HISTORY: New 1957, p. 329, Act 261, Eff. Sep. 27.

Act 88, 1961, p. 89; Eff. Sep. 8.

AN ACT to provide for the preservation and continuity of retirement system service credits for public employees who transfer their employment between units of government.

The People of the State of Michigan enact:

38.1101 Reciprocal retirement act; short title.

Sec. 1. This act shall be known and may be cited as the "reciprocal retirement act".

HISTORY: New 1961, p. 89, Act 88, Eff. Sep. 8.

CITED IN OTHER SECTIONS: Sections 38.1101 to 38.1105 are cited in §§ 38.618c, 287.572a, and 288.25a.

38.1102 Reciprocal retirement act; definitions.

Sec. 2. As used in this act:

(a) "State unit" means the state employees' retirement system, established by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948; the public school employees' retirement system, established by chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.234 of the Compiled Laws of 1948; the judges' retirement system, established by Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948; the probate judges' retirement system, established by Act No. 165 of the Public Acts of 1954, as amended, being sections 38.901 to 38.933 of the Compiled Laws of 1948; the department of public safety pension, accident and disability fund, established by Act No. 251 of the Public Acts of 1935, as amended, being sections 28.101 to 28.110 of the Compiled Laws of 1948; and the legislative retirement system, established by Act No. 261 of the Public Acts of 1957, as amended, being sections 38.1001 to 38.1060 of the Compiled Laws of 1948.

(b) "Municipal unit" means a county, city, village, township or school district of the first class; any separate corporation or instrumentality established by 1 or more counties, cities or villages, as permitted by law; any corporation or instrumentality supported in most part by counties, cities and villages, or any of them; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with 1 or more counties, cities and villages.

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(c) "Governmental unit" means the state to the extent the employees of the state are covered under an applicable state unit; and any municipal unit.

(d) "Reciprocal unit" means any state unit or municipal unit which elects to come under the provisions of this act.

(e) "Retirement system" means the retirement, pension or annuity system, plan or fund under which a governmental unit covers its employees. The term "retirement system" shall not include the federal social security old-age survivors' and disability insurance program.

(f) "Reciprocal retirement system", in the case of a municipal unit electing to become a reciprocal unit, means the retirement systems under which the municipal unit covers its employees. In the case of a state unit, "reciprocal retirement system" means a state unit which elects to become a reciprocal unit.

(g) "Accumulated deposits" or "accumulated contributions" means the amounts deducted from the compensations of a member of a reciprocal retirement system and credited to his individual account in the system, together with interest, if any, credited thereon.

(h) "Final average salary" means the salary or the average of salaries used in computing a retirement allowance, as set forth in the retirement system plan.

(i) "Retirement allowance" means the annuity, pension or retirement allowance payable to a member of a reciprocal retirement system on account of his employment with a reciprocal unit.

(j) "Retirement" means the withdrawal of a member of a reciprocal retirement system from the employ of a reciprocal unit with a retirement allowance payable from funds of the reciprocal retirement system.

HISTORY: New 1961, p. 89, Act 88, Eff. Sep. 8;—Am. 1965, p. 137, Act 106, Imd. Eff. Jun. 30.

38.1103 Reciprocal retirement act; adoption by municipal or state unit; certification, force and effect.

Sec. 3. (1) Any municipal unit, which covers its employees under a retirement system or systems, by a majority vote of its governing body may elect to adopt the provisions of this act for its employees covered under such retirement system or systems.

(2) Any state unit, by a majority vote of its governing body, may elect to have the provisions of this act made applicable to its members.

(3) The governing body of a municipal or state unit, within 10 days after it elects to come under the provisions of this act, shall file written certification of its action with the secretary of state. Upon the filing of the certification the municipal unit or state unit shall be a reciprocal unit. The secretary of state shall maintain a list of reciprocal units, which list shall be available to any municipal unit or state unit requesting a copy.

(4) The provisions of this act, when adopted by a municipal or state unit shall be effective for the unit in addition to the provisions of charter, ordinance, resolution or state law governing the retirement systems for the reciprocal unit, as the provisions of charter, ordinance, resolution or state act are in force and as amended.

HISTORY: New 1961, p. 90, Act 88, Eff. Sep. 8;—Am. 1965, p. 137, Act 106, Imd. Eff. Jun. 30.

38.1104 Reciprocal retirement; eligibility; retirement allowance, computation, commencement.

Sec. 4. A member of a reciprocal retirement system who leaves the employ of a reciprocal unit, herein called the preceding reciprocal unit, and enters the employ of another governmental unit, herein called the succeeding governmental unit, shall be entitled to a retirement allowance payable by the preceding reciprocal unit's retirement system subject to the following conditions:

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(a) He has 5 or more years of credited service in force acquired in the employ of the preceding reciprocal unit.

(b) He does not withdraw his accumulated deposits from the preceding reciprocal unit's retirement system, or having withdrawn his accumulated deposits he deposits with the preceding reciprocal unit the amount he withdrew together with interest at the rate in effect for the preceding reciprocal unit; such deposit to be made within 1 year from and after the date he becomes employed by the succeeding governmental unit or prior to July 1, 1967, whichever is later.

(c) He enters the employ of each succeeding governmental unit within 5 years from and after the date he leaves the employ of each preceding governmental unit.

(d) His credited service in force with the preceding reciprocal retirement systems plus his credited service acquired in the employ of succeeding governmental units equals or exceeds the minimum credited service required for age and service retirement in the applicable preceding reciprocal retirement system.

(e) His retirement allowance payable by any preceding reciprocal retirement system shall be determined, at the time he ceased to be a member of the preceding reciprocal retirement system, upon the basis of the retirement allowance formula of the preceding reciprocal retirement system, his credited service in force in the said preceding reciprocal retirement system, and his final average salary at that time.

(f) His retirement allowance payable by any preceding reciprocal retirement system shall begin the first day of the second calendar month next following the month he files his application for same with the governing body of the preceding reciprocal retirement system on or after his attainment of age 60 years. In no case shall the retirement allowance begin prior to his attainment of the minimum age for age and service retirement required in the preceding reciprocal retirement system, nor prior to the date he retires from the last governmental unit in which he is employed, whichever is later.

HISTORY: New 1961, p. 91, Act 88, Eff. Sep. 8;—Am. 1963, p. 274, Act 186, Eff. Sep. 6;—Am. 1965, p. 138, Act 106, Imd. Eff. Jun. 30.

38.1105 Reciprocal retirement; credited service.

Sec. 5. A member of a reciprocal retirement system, who has 5 or more years of credited service acquired as a member of the system and who has attained the age but has not met the service requirements for age and service retirement shall be entitled to use his credited service in force previously acquired as a member of governmental unit retirement systems in meeting the service requirements of the system from which he retires. If he has a break in governmental unit employment for a period longer than 5 years his service rendered in the employ of the governmental units prior to his last break in service shall not be used in satisfying the service requirement for age and service retirement in the system from which he retires. Credited service acquired in a governmental unit in which he was previously employed shall not be used in determining the amount of his retirement allowance payable by the reciprocal retirement system from which he retires unless otherwise provided by the retirement system provisions.

HISTORY: New 1961, p. 91, Act 88, Eff. Sep. 8;—Am. 1965, p. 138, Act 106, Imd. Eff. Jun. 30.

Act 314, 1965, p. 600; Imd. Eff. Jul. 22.

AN ACT to authorize the investment of funds of public employee retirement systems or plans created and established by the state or any political subdivision.

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The People of the State of Michigan enact:

38.1121 Public employee retirement systems; investment of assets, conditions and limitations.

Sec. 1. The assets of any public employee retirement system or plan, created and established by the state or any political subdivision, with total assets in excess of $250,000.00, may be invested, reinvested and managed by its governing body subject to the terms, conditions and limitations imposed by law of the state upon domestic life insurance companies in the management of its investments, except as otherwise provided in this act. The authority provided by this act shall be supplemental to that governing the operation of any public employee retirement system.

HISTORY: New 1965, p. 600, Act 314, Imd. Eff. Jul. 22.

38.1122 Investment in common stocks; limitations, exceptions.

Sec. 2. Investment in common stocks shall be limited to an amount not to exceed 25% of its total assets. No more than 5% of its total assets shall be invested in common stocks in any one year, with any unused portion of this usable in subsequent years, but in no event shall more than 8% of such assets be invested in common stocks in any one year. The limitations of this section shall not apply to the reinvestment of funds realized from the sale or transfer of common stocks. Any common stock purchased (1) must have paid dividends in at least 5 of the past 7 consecutive years during which period net earnings shall have exceeded dividends paid, and (2) shall be registered on a national securities exchange regulated under the "securities exchange act of 1934", as amended, 15 U.S.C. 78a except as provided in section 4. A public employee retirement system shall not invest in more than 5% of the common stock outstanding of any one corporation, nor invest more than 1% of its assets in the common stock of any one corporation, except as otherwise provided in this act.

HISTORY: New 1965, p. 600, Act 314, Imd. Eff. Jul. 22;—Am. 1968, p. 481, Act 279, Eff. Nov. 15.

38.1123 Investment in preferred stocks and bonds; limitations.

Sec. 3. (1) Any public employee retirement system may invest not in excess of 10% of its assets in the preferred stock of any one corporation organized under the laws of the United States, or any state, district or territory thereof, if such corporation has continuously and regularly paid dividends provided for by such preferred stock in each of the past 10 years; except that with respect to preferred stocks issued within such 10-year period the requirements as to dividend payments shall apply only from the date of issuance, and in such cases the net earnings of the corporation and its subsidiaries available for fixed charges of the corporation and its subsidiaries and the net earnings of any predecessor organization and their subsidiaries, if any, available for fixed charges of such predecessor organizations and their subsidiaries, shall have averaged an amount per annum for the 10 fiscal years preceding the making of the investment at least equal to 2 times the total annual interest charges, including amortization of debt discount and expense, and dividends guaranteed, if any, and the preferred dividend requirement on a pro forma basis.

(2) A public employee retirement system shall not invest more than 10% of its assets in the bonds or any other fixed interest bearing obligations of any one corporation. This limitation shall not apply to the investment of assets in the bonds or any other fixed interest bearing obligations guaranteed by the United States government.

HISTORY: New 1965, p. 600, Act 314, Imd. Eff. Jul. 22;—Am. 1968, p. 481, Act 279, Eff. Nov. 15.

38.1124 Investment in common stocks of insurance companies, diversified investment companies, trust companies or banks; requirements.

Sec. 4. Investments may be made in the common stocks of (a) insurance companies which have been in operation not less than 10 years immediately preceding such in-

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vestment and have a paid-up capital, surplus and undivided profits in excess of $50,000,000.00 and (b) diversified investment companies registered under the "investment company act of 1940", as amended, if the company has been in existence for not less than 5 years immediately preceding such investment and has net assets in excess of $50,000,000.00 and (c) stocks of (1) a trust company or (2) a bank which is a member of the federal deposit insurance corporation; such trust company or bank to have capital, surplus, and undivided profits in excess of $20,000,000.00 and to have been in operation not less than 10 years immediately preceding such investment. The limitations imposed in section 2 as to the percentage of its assets which may be invested in the common stock of any one corporation and as to the percentage of common stock owned in any one corporation shall not apply to funds of public employee retirement systems invested in diversified investment companies.

HISTORY: New 1965, p. 600, Act 314, Imd. Eff. Jul. 22;—Am. 1968, p. 481, Act 279, Eff. Nov. 15.

38.1125 Investment in real estate or property leased to public instrumentality; inapplicability of certain provisions.

Sec. 5. Any investment in real estate or mortgages on property leased or to be leased to the United States government, any state, or territory, or any agency authority or public instrumentality of the United States shall not be subject to the provisions of section 908 and subsections (4) and (5) of section 942 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.908 and 500.942 of the Compiled Laws of 1948, if the lease is with the retirement system or lease rentals are assigned thereto.

HISTORY: New 1965, p. 600, Act 314, Imd. Eff. Jul. 22.

38.1126 Investment in bonds of international bank or inter-American development bank; authorization.

Sec. 6. Investments may be made in bonds or obligations of the international bank for reconstruction and development and/or the inter-American development bank.

HISTORY: New 1965, p. 600, Act 314, Imd. Eff. Jul. 22.

38.1127 Investment in collective investment funds by investment counsel; authorization.

Sec. 7. A state chartered bank, a national bank, or a trust company retained to act as investment counsel may invest the fund subject to the provisions of this act in any collective investment fund or funds which may be established and maintained for such purposes by such bank or trust company pursuant to federal or state statutes or regulations.

HISTORY: New 1965, p. 601, Act 314, Imd. Eff. Jul. 22.

38.1127a Investment in annuity investment contracts or life insurance company special investment accounts; limitation.

Sec. 7a. Investments may also be made in annuity investment contracts or participations in the general or any separate mortgage, bond or other special investment account or accounts of any life insurance company or companies authorized to do business in this state, but not to exceed 10% of the assets of the public employee retirement system.

HISTORY: Add. 1968, p. 481, Act 279, Eff. Nov. 15.

38.1128 Admitted assets or capital and surplus; definition.

Sec. 8. For a public employee retirement system or plan, the terms "admitted assets" or "capital and surplus", or similar terms as used in Act No. 218 of the Public Acts of 1956, as amended, being sections 500.100 to 500.8302 of the Compiled Laws

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of 1948, mean the total of its cash and investments valued at cost. The term "assets" as used in this act shall mean the total of cash and investments valued at cost of a public employee retirement system.

HISTORY: New 1965, p. 601, Act 314, Imd. Eff. Jul. 22;—Am. 1968, p. 482, Act 279, Eff. Nov. 15.

38.1129 Investments; authorization by retirement system governing board.

Sec. 9. Subject to the provisions of this act, investments may be made in such stocks, bonds, or other evidences of indebtedness of solvent corporations as the governing board of any public employee retirement system or plan, or a committee of such board, entrusted by it with the investment of its funds, in the exercise of its judgment may deem proper to purchase as an investment.

HISTORY: New 1965, p. 601, Act 314, Imd. Eff. Jul. 22;—Am. 1968, p. 482, Act 279, Eff. Nov. 15.

38.1130 Loans on real estate; authorization, limitation.

Sec. 10. Loans made pursuant to section 942 of Act No. 218 of the Public Acts of 1956, as amended, being section 500.942 of the Compiled Laws of 1948, or section 5 of this act may be made upon real estate or leasehold estates, either improved or to be improved by the proceeds of the loan. In the case of loans on real estate or leasehold estates to be improved, the term of years as set forth in section 942 of Act No. 218 of the Public Acts of 1956, as amended, being section 500.942 of the Compiled Laws of 1948, may commence not later than 12 months after completion of the improvements.

HISTORY: New 1965, p. 601, Act 314, Imd. Eff. Jul. 22.

38.1131 Election of act by political subdivision.

Sec. 11. Notwithstanding any charter provision, the governing body of a political subdivision, which maintains a retirement system for its employees, by resolution may elect to be governed by the provisions of this act.

HISTORY: Add. 1966, p. 60, Act 36, Imd. Eff. May 26.

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CHAPTER 41. TOWNSHIPS

TOWNSHIPS AND TOWNSHIP OFFICERS
Ch. 16, R.S. 1846

BOUNDARIES

41.1 Townships; boundaries.

POWERS AND DUTIES OF TOWNSHIPS
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41.252 Lighting of highways and bridges; supervision; power of board to contract for service.
41.253 Lighting of highways and bridges; special assessment district, creation; notice; publication; hearing.
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41.257 Maintenance of private roads; special assessment districts, establishment.

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41.262 Lighting of state trunk line highways; joint or separate action by townships and counties; payment of expenses; effect of act.

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41.271 Pavements or sidewalks; application by petition; eligibility of signers, certificate of tax status; authority of county road commissioners; highway or public highway, definition.
41.271a Pavements or sidewalks; application by resolution of township board; declaration of necessity, public hearing; petition for discontinuance.
41.272 Pavements or sidewalks; survey, plat; adoption of materials, grade and manner of construction by county road commissioners.
41.273 Bridges, drains, curbing, culverts and additional rights of way; deemed part of improvement.
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41.275 Pavements or sidewalks; hearing of objections, notice, contents; change in specifications or boundaries of assessment district, new hearing.
41.276 Pavements or sidewalks; liability of petitioners.
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41.278 Contracts for construction of improvement; bids, notice, procedure; commencement of construction.
41.279 Special assessment district; determination, announcement, addition of lands; determination of installments.
41.280 Assessment of benefits against township and parcels of land; review; assessment against state lands; numbering of districts.
41.281 Creation of indebtedness; approval by township board; limitation on issue of township bonds.
41.282 Maintenance and repair of improvement; proration of expense of joint improvement.
41.283 Application of Covert act; interest chargeable.
41.283a Bonds; issuance and sale; interest rate; assessment district sinking fund, creation, purpose; payment by township.
41.284 Advancement of county road funds; reimbursement by township.
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41.286 Hearing examiners; powers and duties; determination of board of county road commissioners, petition for reconsideration, filing; notice, hearing.

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41.291 Township street cleaning vehicles and snow removal equipment; purchase, approval.

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41.301-41.305 Repealed.

Act 181 of 1937

41.311-41.316a Repealed.

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Act 151 of 1931

41.321-41.323 Repealed.

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41.331 Township water supply district; creation, power of township board to contract with city or village.
41.332 Water mains and fittings; purchase, installation, maintenance.
41.333 Township water supply system; payment from township contingent fund, limitations; separate water supply system, support.
41.334 Township water supply system; payment of balance by popular subscription.
41.335 Township water supply system; plan for financing, maintenance and control; provisions.

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41.335a Township water board; creation, powers; loans by private parties.
41.336 Township water supply system; plan for financing, publication.
41.337 Failure to raise balance in accordance with terms of plan; refund of prior payments.
41.338 Installation of improvement by township board; authority to borrow funds.
41.339 Excess funds; disposition; section retroactive.
41.340 Maintenance and use of mains and fittings; control by township board; amendment of rules and regulations, notice required.
41.341 Mains previously installed or extended; control by township board; rules and regulations, adoption, publication, amendment.
41.342 Township water supply system; definitions.
41.343 Township water supply and sewage disposal system; loan from corporation; bonds.
41.344 Contract for issuance of revenue bonds; interest, terms and conditions.
41.345 Ordinance of township board.
41.346 Statutory lien upon net revenues; trust funds.
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41.348 Payment of principal and interest on bonds; default, appointment of receiver.
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41.350 Operation and maintenance; appropriations from other revenue.
41.a351 Powers conferred by act; corporation, definition.

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41.351 Water service; authority of township board to contract with municipality, levy special assessments, issuance of bonds.
41.352 Special assessment water district; filing of petition; establishment by township board.
41.353 Contract for water service; notice, hearing, approval by township board; special assessments, issuance of bonds, advance.
41.354 Special assessments; annual installments, collection, maximum.
41.355 Credit for connections by water users; payment, limitation.
41.356 Annual assessment for maintenance; determination, levy and collection.

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41.391 Water supply for fire protection and other purposes; filing of petition; authority of township board to contract with municipalities.
41.392 Installation and maintenance of pipes, connections and fittings; authority of township board.
41.393 Installation and maintenance of pipes; cost, payment.
41.394 Certification of tax.
41.395 Issuance of bonds; annual installments, interest, limitations.
41.396 Bonds; payment of principal and interest, tax levy.
41.397 Special assessments; determination, levy and collection by township board; issuance of bonds.
41.398 Special assessments; prerequisites to construction; issuance of bonds; advance of township funds.

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41.401 Sidewalks along and footwalks over highways; installation by township board; approval required.
41.402 Sidewalks; payment from township contingent or general fund.

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41.411 Township and village public improvements; authority of township board or council to make, levy and collect special assessments and issue bonds.
41.412 Special assessment district; procedure for establishment, enlargement, discontinuance; petitions, signers.
41.413 Special assessments; levy and collection proceedings; issuance of bonds, advancement of township funds, reimbursement.
41.413a Waterworks; control and operation by board of public service commissioners, exception; board, membership, vacancies, residency requirements, election, terms, employees.
41.414 Special assessments; annual installments, collection, limitations; appeal; village or district waterworks, restrictions.
41.415 Special assessments on corner lots; payment by township.

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41.421 Township parks; acquisition; control by board of commissioners; condemnation of land.
41.422 Township parks; rules and regulations of board of commissioners; sale of liquor; admission charges.
41.423 Board of commissioners; election of officers; employees; record of transactions; treasurer, bond.
41.424 Township parks; plan for acquisition, specifications; referendum, adoption, record.
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41.431 Township parks; conveyance of title to board of county park trustees; arrangement for maintenance.

TOWNSHIP PARK COMMISSION
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41.441 Township park commission; referendum on establishment; members, appointment, terms, election.
41.442 Township park commission; authority to acquire, manage and condemn lands; acceptance of gifts and bequests.
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41.445 Issuance of bonds for township parks; referendum, procedure; maximum.
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Act 286 of 1923

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41.482 Public docks; powers of township board as to acquisition, construction and maintenance; proceedings.

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41.491 Township scales; appropriation by township board; tax levy; maintenance and control.

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41.502 Recreation hall operating permit; application, contents, fee; application by corporation.
41.503 Recreation hall operating permit; granting by township board, form.
41.504 Recreation hall operating permit; renewal, nonassignability.
41.504a Recreation hall operating permit; causes for revocation; proceedings; notice, hearing.
41.505 Construction of act.
41.506 Violation of act; penalty.
41.507 Applicability of act; lodges and churches.

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41.531 Recreation halls; annual permit required.
41.532 Recreation hall operating permit; revocation, authority of township board.
41.533 Recreation halls in townships; definitions.
41.534 Violation of act; penalty.
41.535 Recreation halls in townships; exceptions.

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41.541 Billiard rooms and bowling alleys; annual permit required.
41.542 Violation of act; penalty.
41.543 Recreation halls in townships; exceptions.

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41.551, 41.552 Repealed.

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Act 140 of 1963

41.561 Billiard and pool rooms; hours of operation.
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41.601 Surety bonds of township officers; payment from township contingent fund.

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41.611 Sureties of township treasurer; insufficiency, additional sureties.
41.612 Sureties of township treasurer; insufficiency, new bond required by township board.
41.613 New bond required; notification, time.
41.614 New bond; issuance.
41.615 New bond; refusal; new treasurer, appointment; liability of former sureties.
41.616 Former treasurer; transfer of funds to new treasurer, accounting.
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41.651 Administration of oaths; authority of township supervisors.

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41.661 Township attorney; employment by board, compensation; duty to countersign certificates of jurors and witnesses.

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Act 41 of 1955

41.671 Weed control in inland public lakes; appropriation by township.
41.672 Weed control; joint action with other townships.
41.673 Weed control; use of poison, restrictions.

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41.701 Hospitals; appropriation by township for support and maintenance.

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41.711 Ambulance and inhalator service; operation by township; joint action or contract.
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41.711b Ambulance personnel; training, red cross first aid courses.

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41.723 Public improvements; petitions, filing, signatures; determination of sufficiency.
41.724 Public improvements; plans and estimate, filing; publication of notice, hearing of objections; increase in cost, supplemental petition; railroad companies, designation of representative to receive notice.
41.725 Public improvements; plans and estimate, approval by township board; determination of sufficiency of petition; special assessment roll, contents, certification.
41.726 Special assessment roll; filing; notice, hearing of objections; confirmation by township board.
41.727 Special assessment roll; annual installments, amount, due date, interest, delinquency; transfer to township tax assessment roll.
41.728 Special assessments to constitute lien; character and effect.
41.729 Special assessments; collection by township treasurer, report of delinquencies.
41.730 Special assessments; delinquencies, reassessment.
41.731 Division of lands; apportionment of uncollected assessments.
41.732 Special assessment roll; insufficiency, additional pro rata assessments; surplus, refunds.
41.733 Illegal special assessment; reassessment proceedings.
41.734 Exempt corporations; agreement to pay assessment.
41.734a Assessment on platted corner lots; payment of portion by governing body.
41.735 Special assessment bonds; issuance by township board, amount, interest, collection, deposit, execution.
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41.735b Township improvement revolving fund; transfer of funds, amount.
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41.737 Scope of act.

POLICE AND/OR FIRE ADMINISTRATIVE BOARD
Act 57 of 1951

41.751 Police and/or fire administrative board; creation, membership, terms, compensation and expenses, vacancies.
41.752 Administrative board; preparation of annual budget, submission to township board, review, adoption; powers.
41.753 Act supplemental.

FIRE PROTECTION
Act 33 of 1951

41.801 Township fire protection; expenditures, limitation.
Appropriation for maintenance and operation.
Special assessment; bonds.
Special assessment; referendum.
Estimate of costs; hearing, notice; levy, collection.
41.802 Fire protection; annual appropriation by township board.
41.803 Fire protection; special assessments; levy, annual installments; special assessment bonds, issuance; advancements by township board.
41.804 Fire protection; referendum, special election, laws governing.
41.805 Fire protection ordinances and standard fire prevention codes; adoption, publication.
41.806 Fire department; establishment by township board, rules and regulations; joint action; delegation of powers to administrative board.
Contracts for use of fire apparatus or equipment.
41.807 Repeals.
41.808 Rights or obligations safeguarded.
41.809 Joint meetings of township boards.
41.810 Fire protection for townships, villages and certain cities, joint action; restriction.

WATER SERVICE FOR FIRE PROTECTION
Act 96 of 1951

41.831 Township water service for fire protection; district with revenue bond water system, special assessments authorized.
41.832 Revenue bond water system district; designation of boundaries, determination of special assessments and payment from general fund.
41.833 Use of unappropriated funds.
41.834 Special assessment district; establishment, plans and estimate, public hearing.
41.835 Assessment; levy by township supervisor.
41.836 Assessment; method, collection, return for non-payment.
41.837 Special assessment district; notice of hearing, publication, posting.
41.838 Special assessment district; hearing of objections, modifications.
41.839 Special assessment roll; review and conformation by township board.
41.840 Special assessments; annual levy; further hearings.
41.841 Special assessments; maximum.

POLICE PROTECTION
Act 181 of 1951

41.851 Township police protection; purchase of motor vehicles, apparatus and equipment; appropriation by township board, joint action; special assessments, referendum; special assessment district, creation, estimate, notice, hearing, objections; assessment, levy; insufficiency, transfers from general fund.
41.852 Police protection; annual appropriation by township board for maintenance and operation.
41.853 Special assessments; levy and collection, provisions governing.
41.854 Police protection; referendum by special election, provisions governing.
41.855 Police department; establishment and maintenance by township board; joint action; delegation of powers to administrative board.

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41.856 Joint meetings of township boards.

WATER SUPPLY CONTRACTS
Act 207 of 1953

41.871 Water supply contracts for fire protection and domestic purposes; authorization of township board to enter.
41.872 Water supply contracts; authorization of township board to incur indebtedness for installation and maintenance of facilities; limitation.
41.873 Issuance of notes; annual installments, interest; computation of amounts; payment of principal and interest, separate fund.
41.873a Issuance of notes; approval; sale.
41.874 Ordinance pledging sales tax funds; authorization.
41.875 Ordinance pledging sales tax funds; provisions.
41.876 Ordinance; adoption, effective date, record, publication.
41.877 Ordinance; petition for referendum, signatures, verification.
41.878 Water supply contracts; powers granted to townships.

RETIREMENT SYSTEMS AND GROUP INSURANCE FOR OFFICERS AND EMPLOYEES
Act 27 of 1960

41.901 Township retirement systems; contracts of group insurance; arrangements for prepayment plan coverage; contracts for annuities or pensions; authorization of township to institute.
41.902 Group insurance; payroll deduction of premiums or charges.
41.903 Insurance contract or arrangement for prepayment plan coverage; eligibility, notice of noncoverage.
41.904 Validity of former programs unaffected.
41.905 Construction of act; additional powers; amendment of charter.

SIDEWALKS OUTSIDE CITIES AND VILLAGES
Act 67 of 1961

41.921 Township sidewalks; annual appropriation for maintenance and repair, limitations.
41.922 Special assessment district; establishment; notice, hearing.
41.923 Special assessment district; boundaries; annual assessment, levy, collection, return.
41.924 Sidewalk maintenance; transfer of cost from district to township.
41.925 Scope of act.

SIDEWALKS IN TOWNSHIPS
Act 35 of 1966

41.931 Construction of township sidewalks; authority of township board.
41.932 Sidewalk construction; public meeting, notice.
41.933 Sidewalk construction; assessment; approval of state or county highway authority.

ADVERTISING TOWNSHIP
Act 28 of 1968

41.991 Advertisement of state, county or township agricultural advantages; appropriation by township board.

R.S. 1846, Ch. 16.

POWERS AND DUTIES OF TOWNSHIPS, AND ELECTION AND DUTIES OF TOWNSHIP OFFICERS.

41.1 Townships; boundaries.

Sec. 1. The limits and boundary lines of every organized township, shall remain as now established, until otherwise provided by law.

HISTORY: CL 1857, 493;—CL 1871, 636;—How. 669;—CL 1897, 2267;—CL 1915, 2046;—CL 1929, 956;—CL 1948, 41.1.
CITED IN OTHER SECTIONS: Sections 41.1 to 41.103 are cited in § 42.2.

POWERS AND DUTIES OF TOWNSHIPS.

41.2 Township inhabitants; body corporate, powers.

Sec. 2. The inhabitants of each organized township shall be a body corporate, and as such, may sue and be sued, and may appoint all necessary agents and attorneys in that behalf; and shall have power to purchase and hold real and personal estate for the public use of the inhabitants, and to convey, alienate and dispose of the same; and to make all contracts that may be necessary and convenient for the exercise of their corporate powers, and any orders for the disposal of their corporate property which they may judge expedient.

HISTORY: CL 1857, 494;—CL 1871, 637;—How. 670;—CL 1897, 2268;—CL 1915, 2047;—CL 1929, 957;—CL 1948, 41.2.
See also Compilers' chapters commencing with Compilers' §§ 123.1 to 141.1.
COST-PLUS CONTRACTS: Prohibited in certain cases, see Compilers' §§ 17.41 and 17.42.

41.3 Township inhabitants; taxing power, limitations; restrictions on incurrence of debt by officers and boards.

Sec. 3. The inhabitants of any township shall have the power at any legal meeting, by a vote of the qualified electors thereof, to grant and vote sums of money, not ex-

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ceeding such amounts as are or may be limited by law as they shall deem necessary for defraying all proper charges and expenses arising in such township, but they shall not vote or raise by tax in any 1 year for contingent or ordinary expenses of the township to exceed the sum of $4,000.00, except in townships having an assessed valuation of $1,500,000.00 or less and then not to exceed $3,000.00 and except in townships where there are 10 or more election precincts, and then a sum not to exceed $5,000.00, and except townships having an assessed valuation of $8,000,000.00 or over and then not to exceed 1/2 of 1% of the assessed valuation according to the assessment roll of the last preceding year. In townships having an assessed valuation of $4,000,000.00 or over, but not more than $8,000,000.00, the qualified electors of such township at the next regular election to be held in such township, or at a special election called by the township board, shall vote on the proposition of the levy of not to exceed 1/2 of 1%, and if a majority of such electors voting thereon vote in favor thereof, then in any such township not to exceed 1/2 of 1% may be levied on the assessed valuation according to the assessment roll of the last preceding year. No money shall be raised by tax on the property of the township in excess of $5,000.00 in any 1 year for township purposes, except such as shall be voted for specific purposes, to be set forth and entered upon the records of the township, and all moneys so raised shall constitute a fund for the purpose or purposes so expressed, and shall not be applied to any other purposes. In townships having an assessed valuation of $8,000,000.00 or over, the amount so raised for ordinary or contingent expenses may be increased to 1/2 of 1% of the assessed valuation according to the assessment roll of the last preceding year. In townships having an assessed valuation of $4,000,000.00 or over, but not more than $8,000,000.00, in which the electors by a majority vote have voted in favor thereof, not to exceed 1/2 of 1% may be levied on the assessed valuation according to the assessment roll of the last preceding year. No board, officer or officers shall create any debt or liability against the township, or issue any warrant, certificate or order for the payment of money, except when the creation of such debt or liability or the payment of such money has been authorized by such vote or by the provisions of law.

HISTORY: CL 1857, 495;—CL 1871, 638;—Am. 1875, p. 240, Act 212, Eff. Aug. 3;—How. 671;—Am. 1887, p. 67, Act 61, Imd. Eff. Apr. 9;—CL 1897, 2269;—Am. 1909, p. 98, Act 62, Eff. Sep. 1;—Am. 1915, p. 55, Act 43, Imd. Eff. Apr. 7;—CL 1915, 2048;—Am. 1919, p. 157, Act 89, Eff. Aug. 14;—CL 1929, 958;—Am. 1931, p. 235, Act 152, Eff. Sep. 18;—Am. 1947, p. 84, Act 75, Imd. Eff. May 7;—CL 1948, 41.3;—Am. 1984, p. 75, Act 72, Eff. Aug. 28.

TAXES: Manner of assessment, see Compilers' §§ 211.10 et seq. and 211.39 et seq. Board of review, see Compilers' § 211.28 et seq.

41.4 Township inhabitants; power to make orders and by-laws.

Sec. 4. The inhabitants of each township may, at any legal meeting, by a vote of the qualified electors thereof, make all such orders and by-laws for determining the time and manner in which cattle, horses, swine, sheep and other animals shall be restrained from going at large in the highways, and for directing and managing the prudential affairs of the township as they shall judge most conducive to the peace, welfare and good order thereof.

HISTORY: CL 1857, 496;—CL 1871, 639;—How. 673;—CL 1897, 2271;—CL 1915, 2050;—CL 1929, 959;—CL 1948, 41.4.

41.5 Orders and by-laws; violations, penalties.

Sec. 5. They may annex to such orders and by-laws suitable penalties, not exceeding 10 dollars for any 1 breach thereof, to be recovered by complaint before any justice of the peace of the township or county where the offense shall have been committed.

HISTORY: CL 1857, 497;—CL 1871, 640;—How. 674;—CL 1897, 2272;—CL 1915, 2051;—CL 1929, 960;—CL 1948, 41.5.

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41.6 By-laws; publication, effect.

Sec. 6. The by-laws of any township shall, before the same shall take effect, be published by posting up copies thereof in 3 of the most public places in the township; and such by-laws duly made and published shall be binding upon all persons coming within the limits of the township, as well as upon the inhabitants thereof.

HISTORY: CL 1857, 498;—CL 1871, 641;—How. 675;—CL 1897, 2273;—CL 1915, 2052;—CL 1929, 961;—CL 1948, 41.6.

41.7 Suits, acts or proceedings by or against corporate township; conveyances, effect.

Sec. 7. All suits, acts, or proceedings, by or against a township, in its corporate capacity, shall be in the name of such township; but every conveyance of lands within the limits of such township, made in any manner, for the use or benefit of its inhabitants, shall have the same effect as if made to the township by name.

HISTORY: CL 1857, 499;—CL 1871, 642;—How. 676;—CL 1897, 2274;—CL 1915, 2053;—CL 1929, 962;—CL 1948, 41.7.

TOWNSHIP MEETINGS.

41.8 Annual township meeting; date.

Sec. 8. The annual meeting of each township shall be held on the Saturday immediately preceding the first Monday in April, in each year, at the time and place selected by the township board as provided in section 361 of Act No. 116 of the Public Acts of 1954, as amended, being section 168.361 of the Compiled Laws of 1948.

HISTORY: CL 1857, 500;—CL 1871, 643;—Am. 1875, p. 36, Act 42, Imd. Eff. Mar. 20;—Am. 1881, p. 155, Act 158, Eff. Jul. 1;—How. 677;—CL 1897, 2275;—Am. 1909, p. 103, Act 66, Eff. Sep. 1;—CL 1915, 2054;—CL 1929, 963;—Am. 1944, 1st Ex. Ses., p. 28, Act 16, Imd. Eff. Feb. 19;—CL 1948, 41.8;—Am. 1956, p. 212, Act 105, Eff. Aug. 11.

Sec. 9.

HISTORY: CL 1857, 501;—CL 1871, 644;—How. 678;—CL 1897, 2276;—CL 1915, 2055;—CL 1929, 964;—Rep. 1944, 1st Ex. Ses., p. 29, Act 16, Imd. Eff. Feb. 19.

This section provided for township meeting ballot.

Sec. 10.

HISTORY: CL 1857, 502;—CL 1871, 645;—How. 679;—Am. 1889, p. 30, Act 28, Imd. Eff. March 27;—CL 1897, 2277;—CL 1915, 2056;—CL 1929, 965;—Rep. 1944, 1st Ex. Ses., p. 29, Act 16, Imd. Eff. Feb. 19.

This section provided for election of overseer and pound-master at township meeting.

41.11 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Section provided for election and term of justices of the peace.

Sec. 12.

HISTORY: CL 1857, 504;—CL 1871, 647;—Am. 1875, p. 84, Act 65, Eff. April 6;—How. 684;—CL 1897, 2282;—CL 1915, 2061;—CL 1929, 967;—Rep. 1944, 1st Ex. Ses., p.29, Act 16, Imd. Eff. Feb. 19.

This section provided for term of township highway commissioner.

41.13 School inspector; term.

Sec. 13. Each school inspector elected as aforesaid shall hold his office for 2 years from that time and until his successor shall be elected and duly qualified, except when elected or appointed to fill a vacancy, in which case he shall hold the office during the unexpired portion of the regular term: Provided, That in the year 1882 1 additional school inspector in each township shall be elected for the term of 1 year. Provided, further, That the township superintendent of schools and school inspectors now in office shall continue to act as school inspectors and said superintendent of schools shall continue to act as chairman of the board of school inspectors until the school inspectors provided for by this act shall have been elected and duly qualified and shall enter upon the duties of their respective offices.

HISTORY: CL 1857, 505;—CL 1871, 648;—Rep. 1875, p. 38, Act 42, Imd. Eff. March 20;—Restored and amended 1881, p. 155, Act 158, Eff. July 1;—How. 684a;—CL 1897, 2283;—CL 1915, 2062;—CL 1929, 968;—CL 1948, 41.13.

Sec. 14.

HISTORY: CL 1857, 506;—CL 1871, 649;—Am. 1875, p. 36, Act 42, Imd. Eff. March 20;—Am. 1875, p. 84, Act 65, Eff. April 6;—Am. 1881, p. 155, Act 158, Eff. July 1;—How. 685;—CL 1897, 2284;—CL 1915, 2063;—CL 1929, 969;—Rep. 1944, 1st Ex. Ses., p. 29, Act 16, Imd. Eff. Feb. 19.

This section provided for term of township officers. See Compilers' § 171.13.

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41.15 Township officer elected to fill vacancy; term.

Sec. 15. Each township officer elected at a special election to fill a vacancy, shall hold his office during the then unexpired portion of the regular term of the office and no longer, unless again elected.

HISTORY: CL 1857, 507;—CL 1871, 650;—How. 686;—CL 1897, 2285;—CL 1915, 2064;—CL 1929, 970;—CL 1948, 41.15;—Am. 1956, p. 212, Act 105, Eff. Aug. 11.

41.16 Township meetings; place.

Sec. 16. The annual and special township meetings, shall severally be held at such place as shall be directed in the act or proceedings by which the township was organized, or in such other place as shall be designated by the township board.

HISTORY: CL 1857, 508;—CL 1871, 651;—How. 687;—CL 1897, 2286;—CL 1915, 2065;—CL 1929, 971;—CL 1948, 41.16;—Am. 1956, p. 212, Act 105, Eff. Aug. 11.

41.17, 41.18 Repealed. 1956, p. 213, Act 105, Eff. Aug. 11.

Sections provided for adjournment of township meetings and notice of place for adjourned meeting.

41.19 Township meetings; adjournment.

Sec. 19. Any annual or special meeting may, by a vote of the meeting, be adjourned to any other day, and from time to time, for the purpose of transacting any proper business of the township.

HISTORY: CL 1857, 511;—CL 1871, 654;—How. 690;—CL 1897, 2289;—CL 1915, 2068;—CL 1929, 974;—CL 1948, 41.19;—Am. 1956, p. 212, Act 105, Eff. Aug. 11.

41.20 First township meeting; date.

Sec. 20. The first township meeting after the organization of any township shall be held on the Saturday immediately preceding the first Monday in April following such organization.

HISTORY: CL 1857, 512;—CL 1871, 655;—How. 691;—CL 1897, 2290;—CL 1915, 2069;—CL 1929, 975;—Am. 1944, 1st Ex. Ses., p. 28, Act 16, Imd. Eff. Feb. 19;—CL 1948, 41.20;—Am. 1956, p. 212, Act 105, Eff. Aug. 11.

FORMER LAW: See Sec. 1 of Act 21 of 1839, p. 16.

41.21 First township meeting; election of officers, proceedings.

Sec. 21. At the first township meeting in any township, the qualified electors present between the hours of 9 and 10 o'clock in the forenoon, shall choose 1 of their number as moderator, 1 of their number as clerk, and 2 others of their number as inspectors, who shall severally take the oath of office prescribed by the twelfth article of the constitution, and shall conduct the proceedings of such meeting in all respects as other township meetings are required by law to be conducted, as near as may be, and with the same powers.

HISTORY: CL 1857, 513;—CL 1871, 656;—How. 692;—CL 1897, 2291;—CL 1915, 2070;—CL 1929, 976;—CL 1948, 41.21.

FORMER LAW: See Sec. 2 of Act 21 of 1839, p. 17.

CONSTITUTION: The twelfth article above referred to is of Constitution of 1835. For Oath, see Const. XI, 1.

41.22 First township meeting; failure to hold; call proceedings.

Sec. 22. If the inhabitants of any newly organized township shall fail to hold their first township meeting on the day specified by law, any 3 qualified voters of such township, may call a meeting of the electors of such township, for such township election, at any time thereafter, by posting up notices thereof in not less than 3 public places in such township, at least 10 days previous to the holding of such meeting.

HISTORY: CL 1857, 514;—CL 1871, 657;—How. 693;—CL 1897, 2292;—CL 1915, 2071;—CL 1929, 977;—CL 1948, 41.22.

FORMER LAW: See Sec. 3 of Act 21 of 1839, p. 17.

41.23 First township meeting; oaths of office, administration.

Sec. 23. At such first township meeting, the moderator shall administer the oath of office to the other inspectors, and either of the other inspectors, after having been so qualified, may administer the like oath to the moderator.

HISTORY: CL 1857, 515;—CL 1871, 658;—How. 694;—CL 1897, 2293;—CL 1915, 2072;—CL 1929, 978;—CL 1948, 41.23.

FORMER LAW: See Sec. 4 of Act 21 of 1839, p. 17.

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41.24 Special township meetings; filling vacancies.

Sec. 24. Special township meetings may be held for the purpose of choosing officers to fill any vacancy that may occur, if the township board shall deem it expedient, and make their order therefor, and in case the said township board become disorganized, or reduced below the number of a quorum as provided by law, by or through the death or removal of the officers composing the same, or from any other cause, then such special township meeting may be called and proceeded in, in all respects, as in the case of newly organized townships.

HISTORY: Am. 1853, p. 22, Act 23, Eff. May 16;—CL 1857, 516;—CL 1871, 659;—How. 695;—CL 1897, 2294;—CL 1915, 2073;—CL 1929, 979;—CL 1948, 41.24.

TERM OF OFFICE: Of officer chosen at special meeting to fill vacancy, see Compilers' § 41.15.

41.25 Special township meetings; other lawful purposes; request.

Sec. 25. Special township meetings shall also be held for the purpose of transacting any other lawful business, when ordered by the township board on a request to them in writing, signed by any 12 electors of the township, specifying therein the purposes for which such meeting is to be held; and the mode of proceeding at all special meetings shall be the same as at the annual meetings.

HISTORY: CL 1857, 517;—CL 1871, 660;—How. 696;—CL 1897, 2295;—CL 1915, 2074;—CL 1929, 980;—CL 1948, 41.25.

41.26 Special township meetings; order, contents.

Sec. 26. Every order for a special township meeting shall specify the purpose for which it is to be held, and the time when, and the place where it shall be held; and if any vacancies in office are to be filled at such meeting, such order shall state in what offices vacancies exist, how they occurred, and who were the last incumbents, and if the vacancy be in the office of justice of the peace, such order shall also state at what time the constitutional term of office will expire.

HISTORY: CL 1857, 518;—CL 1871, 661;—How. 697;—CL 1897, 2296;—CL 1915, 2075;—CL 1929, 981;—CL 1948, 41.26.

41.27 Special township meetings; time limits; order, filing.

Sec. 27. The time appointed for holding any special township meeting shall not be more than 20, nor less than 15 days from the time of making the order therefor; and such order shall be left with the township clerk within 2 days after the making thereof, and shall be recorded in his office.

HISTORY: CL 1857, 519;—CL 1871, 662;—How. 698;—CL 1897, 2297;—CL 1915, 2076;—CL 1929, 982;—CL 1948, 41.27.

41.28 Special township meetings; notice, publication.

Sec. 28. The said clerk shall within 2 days after such order shall be left with him, cause copies thereof to be posted up in 3 of the most public places in the township; and if there be a newspaper printed in such township, he shall also cause a copy to be published therein, if practicable, at least 5 days before the day appointed for such special meeting.

HISTORY: CL 1857, 520;—CL 1871, 663;—How. 699;—CL 1897, 2298;—CL 1915, 2077;—CL 1929, 983;—CL 1948, 41.28.

41.29 Repealed. 1956, p. 213, Act 105, Eff. Aug. 11.

Section provided that no notice of annual township meetings shall be necessary.

MANNER OF CONDUCTING ELECTIONS.

Secs. 30-38.

HISTORY: CL 1857, 522-530;—CL 1871, 666-673;—How. 702-709;—CL 1897, 2301-2308;—CL 1915, 2079-2087;—Rep. 1929, p. 827, Act 309, Imd. Eff. May 24, being CL 1929, 121. See election law, being Compilers' § 145.1 et seq.

Sec. 39.

HISTORY: Am. 1855, p. 137, Act 69, Imd. Eff. Feb. 10;—CL 1857, 531;—CL 1871, 674;—How. 710;—Am. 1895, p. 524, Act 233, Eff. Aug. 30;—CL 1897, 2309;—CL 1915, 2088;—Rep. 1929, p. 827, Act 309, Imd. Eff. May 24, being CL 1929, 121.

Sec. 40.

HISTORY: CL 1857, 532;—CL 1871, 675;—How. 711;—CL 1897, 2310;—CL 1915, 2089;—Rep. 1929, p. 827, Act 309, Imd. Eff. May 24, being CL 1929, 121.

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CANVASS OF VOTES.

Secs. 41-45.

HISTORY: CL 1857, 533-537;—CL 1871, 676-680;—How. 712-716;—CL 1897, 2311-2315;—CL 1915, 2090-2094;—Rep. 1929, p. 827, Act 309, Imd. Eff. May 24, being CL 1929, 121. See election law, being Compilers' § 145.1 et seq., and particularly Compilers' § 182.1 et seq.

TOWNSHIP OFFICERS.

41.46, 41.47 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections required township officers to file oath of office, and the clerk to give notice of election.

41.48 Justices of the peace; entry upon duties.

Sec. 48. The persons so elected justices of the peace, shall enter upon the duties of their offices respectively as follows:—

First. Those elected for the full term of 4 years; on the fourth of July next succeeding their election:

Second. Those elected to fill vacancies, and those elected at the first township meeting in any new township, immediately upon the filing of their oath of office and security with the county clerk, as required by law.

HISTORY: CL 1857, 540;—CL 1871, 683;—How. 719;—CL 1897, 2318;—CL 1915, 2097;—CL 1929, 987;—CL 1948, 41.48.

41.49 Justices of the peace; offices in new townships deemed vacated.

Sec. 49. When a new township shall be organized, if there be 1 or more justices of the peace residing therein, they shall be deemed to have vacated their respective offices.

HISTORY: CL 1857, 541;—CL 1871, 684;—Am. 1881, p. 6, Act 9, Eff. Sept. 10;—How. 720;—CL 1897, 2319;—CL 1915, 2098;—CL 1929, 988;—CL 1948, 41.49.

41.50 Justices of the peace; election, classification.

Sec. 50. Within 6 days after the election of justices of the peace in such new township, the supervisor shall give notice in writing to the justices elected and to the township clerk of the time and place when and where he will meet them, to determine by lot the classes of justices; which notice shall be served at least 6, and not more than 12 days, previous to the time appointed therein for such meeting.

HISTORY: CL 1857, 542;—CL 1871, 685;—How. 721;—CL 1897, 2320;—CL 1915, 2099;—CL 1929, 989;—CL 1948, 41.50.

FORMER LAW: See Sec. 6 of act entitled "An act to provide for the election of certain county and township officers, and for other purposes," approved March 14, 1836, p. 24.

41.51 Justices of the peace; terms, determination by drawing.

Sec. 51. At the time and place so appointed, the supervisor and township clerk shall cause to be written on separate pieces of paper, as near alike as may be, the numbers 1, 2, 3, 4, or such and so many of such numbers as shall correspond with the number elected, and shall cause them to be rolled up as nearly alike as may be, and deposited in a box; and the persons elected justices shall severally draw 1 of the said pieces of paper, and each shall be classed according to the number written on the paper so drawn by him, and shall hold his office for the term as follows: The term of number 1 shall expire on the fourth day of July then next following, and the terms of the others on the fourth day of July in each succeeding year, respectively, according to the numbers drawn by them.

HISTORY: CL 1857, 543;—CL 1871, 686;—Am. 1881, p. 7, Act 9, Eff. Sept. 10;—How. 722;—CL 1897, 2321;—CL 1915, 2100;—CL 1929, 990;—CL 1948, 41.51.

41.52 Justices of the peace; nonattendance at drawing.

Sec. 52. If any person elected a justice shall neglect to attend such drawing, the supervisor shall draw for him; but if the supervisor be absent from his township or unable to serve, or his office be vacant, the township clerk shall give the notice and perform the duties herein enjoined on such supervisor.

HISTORY: CL 1857, 544;—CL 1871, 687;—How. 723;—CL 1897, 2322;—CL 1915, 2101;—CL 1929, 991;—CL 1948, 41.52.

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41.53 Justices of the peace; certified record of drawing, admissibility as evidence.

Sec. 53. Duplicate certificates of such drawing, and of the result thereof, shall be made and certified by the supervisor and township clerk, or such 1 of them as shall attend the same, 1 of which shall be filed with the township clerk, and the other with the county clerk, and shall be recorded by said clerks in the books in which the canvasses of votes shall have been recorded, and shall be conclusive evidence of the classes to which the justices so elected belong.

HISTORY: CL 1857, 545;—CL 1871, 688;—How. 724;—CL 1897, 2323;—CL 1915, 2102;—CL 1929, 992;—CL 1948, 41.53.

41.54 Justices of the peace; vacancies, election, classification.

Sec. 54. In case more than 1 existing vacancy in the office of justices of the peace shall be supplied by election at any township meeting, the classes of the persons elected to fill the same shall be determined by lot, within the time, and in the manner prescribed for classifying justices elected in new townships.

HISTORY: CL 1857, 546;—CL 1871, 689;—How. 725;—CL 1897, 2324;—CL 1915, 2103;—CL 1929, 993;—CL 1948, 41.54.

41.55 Township officers; failure to subscribe oath of office and file bond; time limit; penalties.

Sec. 55. If any person elected to any township office, except that of justice of the peace, of whom an oath of office is required, who is not exempted by law from holding the office to which he is elected, shall not, within 10 days after notice of his election, take and subscribe the oath of office required by law, and cause the same to be filed with the township clerk, or if any such officer of whom a bond or security shall be required, shall not file such bond or security within the time above limited for filing his said oath, he shall forfeit and pay the sum of 10 dollars; and if any person elected to the office of overseer of highways or pound master, and not exempted by law from holding such office, shall refuse to serve, he shall forfeit and pay the like sum, unless the person selected shall file with the clerk of his township, within said 10 days, a written notice stating that he declines accepting the office.

HISTORY: Am. 1848, p. 313, Act 206, Eff. June 2;—CL 1857, 547;—CL 1871, 690;—How. 726;—CL 1897, 2325;—CL 1915, 2104;—CL 1929, 994;—CL 1948, 41.55.

RESIGNATIONS, VACANCIES, AND SUPPLYING VACANCIES.

41.56 Township officers; resignation, filing.

Sec. 56. Resignations of all officers elected at township meetings, shall be in writing, signed by the officer resigning, and addressed to the township board; and shall be delivered to and filed by the township clerk; and when a justice of the peace resigns, such clerk shall immediately transmit a copy of such resignation, certified by him to the county clerk.

HISTORY: CL 1857, 548;—CL 1871, 691;—How. 727;—CL 1897, 2326;—CL 1915, 2105;—CL 1929, 995;—CL 1948, 41.56.

VACANCIES: In general see Compilers' § 201.1 et seq.

41.57 Township offices; vacation.

Sec. 57. Every township office, including the office of justice of the peace, shall become vacant upon the happening of either of the events specified in chapter 15, as creating a vacancy.

HISTORY: CL 1857, 549;—CL 1871, 692;—How. 728;—CL 1897, 2327;—CL 1915, 2106;—CL 1929, 996;—CL 1948, 41.57.

NOTE: For the Chapter above referred to, see Compilers' § 201.1 et seq.

41.58 Township offices; vacancies, temporary appointments.

Sec. 58. Whenever there shall be a vacancy, or when the incumbent shall, from any cause, be unable to perform the duties of his office, in either of the township offices, except that of justice of the peace and township treasurer, the township board may make temporary appointments of suitable persons to discharge the duties of such offices respectively; and such persons so appointed shall take the oath of office, or file

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the notice of acceptance required by law, and shall continue to discharge such duties until the office is filled by election or until the disability aforesaid be removed.

HISTORY: CL 1857, 550;—CL 1871, 693;—How. 729;—CL 1897, 2328;—CL 1915, 2107;—CL 1929, 997;—CL 1948, 41.58.

FORMER LAW: See Sec. 35 of Act 18 of 1843, p. 20.

VACANCIES: Filling, see Act 199 of 1923, being Compilers' § 201.31 et seq.

41.59 Office of township treasurer; vacancies, temporary appointments.

Sec. 59. In case the treasurer of any township shall refuse to serve, or shall vacate his office before completing the duties thereof, or be disabled from completing the same, by reason of sickness or any other cause, the township board shall forthwith appoint a treasurer for the remainder of the term, who shall give like security, and be subject to like duties and responsibilities, and have the same powers and compensation as the treasurer in whose place he was appointed, and the township clerk shall immediately give notice thereof to the county treasurer; but such appointment shall not *exonorate the former treasurer or his sureties from any liability incurred by him or them.

HISTORY: CL 1857, 551;—CL 1871, 694;—How. 730;—CL 1897, 2329;—CL 1915, 2108;—CL 1929, 998;—CL 1948, 41.59.

*NOTE: The word "exonorate" should be spelled "exonerate."

VACANCIES: Township treasurer, see Sec. 50 of Act 206 of 1893, being Compilers' § 211.50.

SUPERVISOR.

41.60 Township supervisor; prosecution of penalties and forfeitures.

Sec. 60. The supervisor of each township shall prosecute, in the name of the people of this state, or otherwise, as may be necessary, for all penalties and forfeitures incurred within his township, and for which no other officer is specially directed to prosecute.

HISTORY: CL 1857, 552;—CL 1871, 696;—How. 732;—CL 1897, 2331;—CL 1915, 2110;—CL 1929, 999;—CL 1948, 41.60.

41.61 Township supervisor as assessor; clerk and other assessors, appointment, compensation, duties; assessment rolls.

Sec. 61. The supervisor shall, by virtue of his office, be an assessor of his township. At the annual meeting in any township, the electors of such township, present at such meeting, may provide for the appointment, by the supervisor, of a clerk to assist him in his duties. Such clerk shall receive such compensation as the township board may determine, which compensation shall be paid from the general fund of the township as other township expenses are paid. In any township, in addition to the supervisor, the township board may provide for the appointment of assessors, not exceeding 2, for such township. Such assessors when appointed shall be clothed with all the powers and duties of supervisors in the assessment of property for taxation within such township and shall receive for their services such compensation as may be allowed by the township board. Whenever assessors shall be appointed, as in this act provided, the supervisor shall be the chief assessing officer and such assessors shall in all cases be subordinate to such supervisor. Upon completion of the assessment and the making of the rolls, such rolls shall be deposited with the supervisor.

HISTORY: CL 1857, 553;—CL 1871, 697;—How. 733;—CL 1897, 2332;—Am. 1913, p. 652, Act 347, Eff. Aug. 14;—CL 1915, 2111;—Am. 1919, p. 157, Act 89, Eff. Aug. 14;—Am. 1919, p. 629, Act 355, Eff. Aug. 14;—CL 1929, 1000;—Am. 1935, p. 99, Act 64, Eff. Sep. 21;—CL 1948, 41.61;—Am. 1957, p. 124, Act 104, Eff. Sep. 27.

Act 89 of 1919, was approved April 19, 1919; Act 355 of 1919, was approved May 13, 1919.

41.61a Township appraisal; employment of independent appraisal firm.

Sec. 61a. Any township board may employ an independent appraisal firm to make a township-wide appraisal or to assist the supervisor as directed and authorized by the board in performing his assessing duties. Such appraisal firm shall be paid out of the general fund of the township.

HISTORY: Add. 1958, p. 8, Act 6, Eff. Sep. 13.

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41.62 Township supervisor; preservation of records, delivery to successor; certified copies, fees, admissibility as evidence.

Sec. 62. The supervisor shall preserve and keep all books, assessment rolls, and other papers belonging to his office, in a safe and suitable place, but not in any saloon, restaurant, public inn, hotel, place of public amusement, nor in any place where intoxicating drinks of any kind are kept or sold, or where gaming or plays of chance of any kind are carried on, or where they will be exposed to unusual hazard from fire or theft, and he shall deliver the same on demand to his successor in office, and on application of any person he shall give certified copies of any such papers, or abstracts from any assessment roll or books in his office; and for making any such copies or abstracts he shall be entitled to receive from the person applying therefor 6 cents for each folio; but no such copy or abstract and certificate shall be required for less than 12 ½ cents; and such certified copies or abstracts shall be presumptive evidence of the facts therein contained.

HISTORY: CL 1857, 554;—CL 1871, 698;—Am. 1875, p. 205, Act 178, Imd. Eff. May 1;—How. 734;—CL 1897, 2333;—CL 1915, 2112;—CL 1929, 1001;—CL 1948, 41.62.

41.63 Supervisor; attendance at meetings required.

Sec. 63. The supervisor of each township shall attend the annual meeting of the board of supervisors of the county, and every adjourned or special meeting of such board of which he shall have notice.

HISTORY: CL 1857, 555;—CL 1871, 699;—How. 735;—CL 1897, 2334;—CL 1915, 2113;—CL 1929, 1002;—CL 1948, 41.63.

41.64 Supervisor; reports to township board.

Sec. 64. Each supervisor shall lay before the board of supervisors such copies of entries concerning moneys voted to be raised in his township, as shall be delivered to him by the township clerk.

HISTORY: CL 1857, 556;—CL 1871, 700;—How. 736;—CL 1897, 2335;—CL 1915, 2114;—CL 1929, 1003;—CL 1948, 41.64.

41.64a Supervisor; agent for legal township business.

Sec. 1. *Be it enacted by the senate and house of representatives of the state of Michigan*, That the supervisor of each township, shall be the agent for his township for the transaction of all legal business, by whom suits may be brought and defended, and upon whom all process against the township shall be served.

HISTORY: Amendment to R.S. 1846, Ch. 16, by Act 192 of 1848, p. 253, Imd. Eff. April 3;—CL 1857, 596;—CL 1871, 750;—How. 737;—CL 1897, 2336;—CL 1915, 2115;—CL 1929, 1004;—CL 1948, 41.64a. See Subd. 5, Sec. 35, Ch. XIII, p. 84, Act 314 of 1915, (Jud. Act), Compiler's § 613.35.

Title of Act 192, 1848, p. 253: "An act to amend chapter sixteen of the revised statutes of eighteen hundred and forty-six."

TOWNSHIP CLERK.

41.65 Township clerk; custodian of township records; preservation, delivery to successor; accounts of township funds.

Sec. 65. The township clerk of each township shall have the custody of all the records, books, and papers of the township, when no other provision is made by law; and he shall duly file and safely keep all certificates of oaths and other papers required by law to be filed in his office, and record such as are required by law to be recorded therein; such records, books, and papers shall not be kept in any saloon, restaurant, public inn, hotel, place of public amusement, nor in any place where intoxicating drinks of any kind are kept or sold, or where gaming or plays of chance of any kind are carried on, nor where they will be exposed to unusual hazard of fire or theft, and he shall deliver the same on demand to his successor in office; he shall also open and keep an account with the treasurer of his township, and shall charge such treasurer with all funds which shall come into his hands by virtue of his office, and shall credit him with all moneys paid out by him on the order of the proper authorities of the township; and shall enter the date and amount of all vouchers in a book kept by said clerk in said office; he shall also open and keep a separate account with each of the several funds be-

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longing to his township, and shall credit each of said funds with such amounts as properly belong to them, and shall charge them severally with all warrants drawn on the township treasurer and payable from said funds respectively.

HISTORY: Am. 1850, p. 55, Act 66, Imd. Eff. March 5;—CL 1857, 557;—CL 1871, 701;—Am. 1875, p. 205, Act 178, Imd. Eff. May 1;—How. 739;—CL 1897, 2338;—CL 1915, 2117;—CL 1929, 1005;—CL 1948, 41.65.

PUBLIC UTILITIES: Certificate of convenience, see Act 69, 1929, being Compilers' § 460.501 et seq.

41.66 Township clerk; minutes of township meetings, recording.

Sec. 66. He shall transcribe, in the book of records of his township, the minutes of the proceedings of every township meeting held therein, and he shall enter in such book, every order or direction, and all rules and regulations made by any such township meeting.

HISTORY: CL 1857, 558;—CL 1871, 702;—How. 740;—CL 1897, 2339;—CL 1915, 2118;—CL 1929, 1006;—CL 1948, 41.66.

As to records of township meetings, see Compilers' § 41.26 and notes.

41.67 Election of township officers; township clerk, transmittal of returns to county clerk; contents, time.

Sec. 67. The township clerk of each township, and the city clerk of each city, shall, immediately after the qualifying of the several officers elected or appointed in their respective townships and cities return to the clerks of their respective counties the names of all such officers, with their respective postoffice addresses: Provided, That the township clerk of the township of South Manitou in the county of Manitou may make such return at any time before the first day of June next after the election of such officers.

HISTORY: CL 1857, 559;—Am. 1869, p. 171, Act 103, Eff. July 5;—CL 1871, 703;—Am. 1873, p. 53, Act 53, Imd. Eff. March 27;—How. 741;—Am. 1885, p. 54, Act 55, Imd. Eff. April 23;—CL 1897, 2340;—CL 1915, 2119;—CL 1929, 1007;—CL 1948, 41.67.

41.68 Election of justice of the peace; township clerk, transmittal of returns to county clerk; contents, time.

Sec. 68. Each township clerk shall, immediately after the election of any justices of the peace in his township, transmit a written notice thereof to the county clerk, stating therein the names of the persons so elected, and the terms for which they were respectively elected; and if 1 or more of them has been elected to fill a vacancy, he shall state in such notice who was the last incumbent of the office.

HISTORY: CL 1857, 560;—CL 1871, 704;—How. 742;—CL 1897, 2341;—CL 1915, 2120;—CL 1929, 1008;—CL 1948, 41.68.

41.69 Township clerk; bond, sureties; deputy, appointment, duties.

Sec. 69. Each township clerk shall, within the time limited for filing his oath of office and before entering upon the duties of his office, give a bond to the township in such sum and with such sureties as the township board shall require and approve, conditioned for the faithful discharge of the duties of his office according to law, and especially for the safe keeping of the records, books, and papers of said township in the manner required by law, and for their delivery on demand to his successor in office, which bond shall be filed in the office of the supervisor; he shall also appoint a deputy, who shall take an oath of office and file the same with the clerk, and in case of the absence, sickness, death or other disability of the clerk, such deputy shall perform the duties of such clerk, and receive the same compensation as the clerk would have been entitled to receive therefor.

HISTORY: CL 1857, 561;—CL 1871, 705;—Am. 1875, p. 205, Act 178, Imd. Eff. May 1;—How. 743;—CL 1897, 2342;—CL 1915, 2121;—CL 1929, 1009;—CL 1948, 41.69.

TOWNSHIP BOARD.

41.70 Township board; membership, quorum; adoption of section.

Sec. 70. The supervisor, 2 trustees, the township treasurer and the township clerk, shall constitute the township board, any 3 of whom shall constitute a quorum for the transaction of business: Provided, That in townships now or hereafter having a population of 5,000 or over as determined by the last federal decennial census or by any fed-

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eral decennial census hereafter taken or now or hereafter having 3,000 or over registered electors, the supervisor, the township treasurer, the township clerk and 4 trustees, to be elected by the registered electors of the township as provided in section 13 of chapter 1 of part 4 of Act No. 351 of the Public Acts of 1925, as amended, being section 171.13 of the Compiled Laws of 1948, shall constitute the township board, any 4 of whom shall constitute a quorum for the transaction of business, and the township clerk shall be the clerk of the township board: Provided, however, That the electors of such township having a population of 5,000 or over, or having 3,000 or over registered electors, shall adopt the provisions of this section by a majority vote at any annual township meeting, or shall have adopted the provisions of this section prior to this amendatory act.

HISTORY: CL 1857, 562;—CL 1871, 706;—How. 744;—CL 1897, 2343;—CL 1915, 2122;—CL 1929, 1010;—Am. 1935, p. 31, Act 19, Eff. Sep. 21;—Am. 1937, p. 109, Act 81, Eff. Oct. 29;—Am. 1945, p. 22, Act 23, Eff. Sep. 6;—CL 1948, 41.70;—Am. 1949, p. 8, Act 9, Imd. Eff. Mar. 8;—Am. 1952, 1st Ex. Ses., p. 4, Act 2, Imd. Eff. Dec. 22.

41.71 Township board; raising of quorum.

Sec. 71. When from any cause there shall not be 3 of the officers constituting such board, competent or able to act, 1 of the remaining justices on being notified by any member of said board shall meet with any members of the board, and shall have the same authority as the other members of the board.

HISTORY: CL 1857, 563;—CL 1871, 707;—How. 745;—CL 1897, 2344;—CL 1915, 2123;—CL 1929, 1011;—CL 1948, 41.71.

41.72 Township board; annual meeting, audit of claims.

Sec. 72. The township board shall meet annually on the second Tuesday next preceding the annual township meeting to be held in such township, for the purpose of auditing and settling all claims against the township; and they shall state on each account the amount allowed by them; and the amounts allowed by them shall be paid by the treasurer, on the order of the board, signed by their clerk, and countersigned by the chairman of the board.

HISTORY: CL 1857, 564;—CL 1871, 708;—How. 746;—CL 1897, 2345;—Am. 1905, p. 214, Act 149, Eff. Sept. 16;—CL 1915, 2124;—CL 1929, 1012;—CL 1948, 41.72.

41.72a Township board; regular and special meetings; proceedings, publication.

Sec. 72a. In addition to the annual meeting of the township board as provided under section 72 of this chapter, the township board shall provide by resolution for the time and place of its regular meetings, and shall hold at least 1 regular meeting every 3 months. If any time set for the holding of a regular meeting of the township board shall be a holiday, then such regular meeting shall be held at the same time and place on the next secular day which is not a holiday. Special meetings of the township board shall be held at such times as may be fixed by the board at any meeting or when in the discretion of the supervisor it appears advisable. Upon call of the supervisors the township clerk shall give notice of the time and place of such meeting to each member either in person or by leaving a written notice at his address.

No business shall be transacted at any special meeting of the township board unless the same has been stated in the notice of such meeting. However, if all the members of the said board are present at any special meeting thereof, then any business which might lawfully come before a regular meeting of the said board may be transacted at such special meeting.

In every organized township which now has, or hereafter acquires, an assessment valuation of $25,000,000.00 or more, it shall be the duty of every township board, within 10 days after each meeting of the board, to publish the proceedings thereof in some newspaper of general circulation in the township. The publication of a synopsis of such proceedings, prepared by the township clerk and approved by the supervisor,

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showing the substance of each separate proceeding of the said board shall be a a sufficient compliance with the requirements of this section.

HISTORY: Add. 1951, p. 49, Act 46, Imd. Eff. May 14.

41.72b Township board; public meetings; executive sessions.

Sec. 72b. All regular and special meetings of the township board shall be open to the public, and the rules of the board shall provide that citizens shall have a reasonable opportunity to be heard. The board may hold executive sessions, but no final action shall be taken at any executive session.

HISTORY: Add. 1960, p. 18, Act 19, Eff. Aug. 17.

41.73 Township board; annual meeting, audit of accounts; preservation of records; bond of township clerk, determination.

Sec. 73. The said board shall, at their annual meeting in each year, examine and audit the accounts of the township treasurer for all moneys received and disbursed by him as such treasurer; and they shall also audit and settle the accounts of all other township officers who are authorized by law to receive or disburse any public moneys by virtue of their offices; they shall also have power and it shall be their duty to cause the provisions of the statute for the protection and preservation of township records, books, and papers to be enforced; and they shall determine the amount of the bond and the number of sureties to be required from the township clerk, as provided by law, in each year, within 30 days next preceding the annual township election.

HISTORY: CL 1857, 565;—CL 1871, 709;—Am. 1875, p. 206, Act 178, Imd. Eff. May 1;—How. 747;—CL 1897, 2346;—CL 1915, 2125;—CL 1929, 1013;—CL 1948, 41.73.

RECORDS OF TOWNSHIP: Examination by attorney general, see Act 52 of 1929, being Compilers' §§ 14.141 to 14.145.

As to the preservation of records, see Compilers' §§ 41.62, 41.65.

41.74 Township clerk; clerk of board.

Sec. 74. The township clerk shall be the clerk of such board, and shall keep a true record of all their proceedings in his office.

HISTORY: CL 1857, 566;—CL 1871, 710;—How. 748;—CL 1897, 2347;—CL 1915, 2126;—CL 1929, 1014;—CL 1948, 41.74.

41.75 Accounts to be audited; form, contents; claims; filing, subject to call.

Sec. 75. No accounts shall be audited by such board, except such as are made in writing, giving the particular items of such account, and verified by oath or affirmation of the claimant or some one in his behalf. If such account shall include a claim for labor or services, for which a certain rate per day is allowed by law, or demanded by the claimant, it shall set forth correctly the number of days spent in such service, the nature of the services rendered, and the date thereof as near as may be. All accounts audited by such board shall be filed and preserved by the clerk, for the inspection of any of the inhabitants of the township or of any persons liable to pay taxes therein, and shall be produced at the next annual township meeting and there read by him, if the same shall be required by the meeting.

HISTORY: CL 1857, 567;—CL 1871, 711;—How. 749;—Am. 1887, p. 69, Act 63, Imd. Eff. April 9;—CL 1897, 2348;—CL 1915, 2127;—CL 1929, 1015;—CL 1948, 41.75.

TREASURER.

41.76 Township treasurer; powers and duties.

Sec. 76. The township treasurer shall receive and take charge of all moneys belonging to the township, or which are by law required to be paid into the township treasury, including all moneys that accrue to his township on account of non-resident highway taxes, and shall pay over and account for the same, according to the order of such township, or the officers thereof duly authorized in that behalf; and shall perform all such other duties as shall be required of him by law.

HISTORY: CL 1857, 568;—CL 1871, 712;—Am. 1877, p. 113, Act 124, Eff. Aug. 21;—How. 751;—CL 1897, 2353;—CL 1915, 2133;—CL 1929, 1016;—Am. 1933, p. 43, Act 43, Eff. Oct. 17;—Am. 1935, p. 28, Act 16, Eff. Sept. 21;—CL 1948, 41.76.

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DEPUTY TREASURER: As to appointment of a deputy, under tax law, see Compilers' § 211.111.
MISAPPROPRIATED FUNDS: SUIT: See Act 94 of 1929, being Compilers' § 129.61, for authorization of suits by taxpayers for misappropriated funds.
TAXATION: See Compilers' § 211.1 et seq.

41.77 Treasurer; bond, filing; deposit of township funds.

Sec. 77. Each township treasurer, within the time limited for filing his oath of office and before he shall enter upon the duties of his office, shall give a bond to the township in such sum and with such sureties as the supervisor shall require and approve, conditioned for the faithful discharge of the duties of his office, and that he will faithfully and truly account for and pay over according to law all moneys which shall come into his hands as such treasurer, and the supervisor shall indorse his approval thereon. It shall be the duty of such treasurer to file within the time above mentioned said bond with the township clerk of such township, who shall record the same in a book to be provided for that purpose. The township clerk shall, after recording same, deliver it to the supervisor who shall file it in his office. The township board of any township may provide by resolution for the depositing of any or all moneys coming into the hands of the treasurer of said township, and said treasurer shall deposit said money in such bank, banks or depository within the county, or in a subsidiary or branch of such bank, banks or depository though located outside the county, in which said township is located as said township board may direct, subject to the provisions of this act. Any interest which may accrue upon such deposit shall be paid into the general fund of such township. The township board of each township shall determine in such resolution the time for which such deposits shall be made, and all details for carrying into effect the authority herein given, but all such proceedings in connection with the deposit of such moneys shall be conducted in such a manner as to insure full publicity and shall be open at all times to public inspection. When a depository is provided as authorized herein and the funds are deposited therein as herein directed the treasurer of the township and his bondsmen shall be relieved of any liability occasioned by the failure of the bank or banks of deposit or the sureties for such bank or banks, or by the failure of either of them to safely keep and repay said funds.

HISTORY: CL 1857, 569;—Am. 1869, p. 156, Act 90, Eff. Jul. 5;—CL 1871, 713;—How. 752;—CL 1897, 2354;—Am. 1903, p. 35, Act 29, Imd. Eff. Apr. 9;—Am. 1909, p. 750, Act 305, Eff. Sep. 1;—CL 1915, 2134;—CL 1929, 1017;—CL 1948, 41.77;—Am. 1962, p. 24, Act 30, Eff. Mar. 28, 1963;—Am. 1964, p. 39, Act 35, Imd. Eff. May 4.

41.78 Treasurer; duty to keep accounts, delivery to successor.

Sec. 78. Each township treasurer shall keep a just and true account of the receipts and expenditures of all moneys which shall come into his hands by virtue of his office, in a book to be provided for that purpose, at the expense of the township, and to be delivered to his successor in office.

HISTORY: CL 1857, 570;—CL 1871, 714;—How. 753;—CL 1897, 2355;—CL 1915, 2135;—CL 1929, 1018;—CL 1948, 41.78.

41.79 Treasurer; accounting to township board.

Sec. 79. On the Tuesday next preceding the annual township meeting, he shall account with the township board of the township, for all moneys received or disbursed by him.

HISTORY: CL 1857, 571;—CL 1871, 715;—How. 754;—CL 1897, 2356;—CL 1915, 2136;—CL 1929, 1019;—CL 1948, 41.79.

CONSTABLES.

41.80 Constables; bond, contents.

Sec. 80. Every person elected or appointed to the office of constable before he enters upon the duties of his office, and within the time prescribed by law for filing his official oath, shall execute, with sufficient sureties to be approved by the supervisor or clerk of his township, an instrument in writing by which said constable and his sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto, all such sums of money as the said constable may become liable to pay on ac-

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count of any neglect or default of said constable in the service or return of any process that may be delivered to him for service or collection or on account of any misfeasance of the said constable in the discharge of, or failure of said constable to faithfully perform any of the duties of his said office.

HISTORY: Am. 1855, p. 84, Act 51, Eff. May 15;—CL 1857, 572;—CL 1871, 723;—Am. 1881, p. 202, Act 166, Eff. Sept. 10;—How. 762;—CL 1897, 2364;—CL 1915, 2144;—CL 1929, 1020;—CL 1948, 41.80.

CONSTABLES IN CITIES: Compilers' § 87.24 provides that constables in fourth class cities shall have power and authority similar to that of township constables.

FEES: In criminal cases, see Compilers' § 775.3.

COST OF BONDS: As to cost of bonds, see Act 130 of 1915, being Compilers' § 41.601.

CITED IN OTHER SECTIONS: The above section is cited in § 600.5807.

41.81 Constables; bond, approval, filing, certified copy admissible as evidence.

Sec. 81. Such supervisor or township clerk shall endorse on such instrument, his approbation of the sureties therein named, and shall then cause the same to be filed in the office of the township clerk, and a copy of such instrument, certified by the township clerk shall be presumptive evidence of the contents and execution thereof, and all actions against a constable or his sureties, upon any such instrument shall be prosecuted within 2 years after the expiration of the year for which the constable named therein shall have been elected.

HISTORY: CL 1857, 573;—CL 1871, 724;—How. 763;—CL 1897, 2365;—CL 1915, 2145;—CL 1929, 1021;—CL 1948, 41.81.

CITED IN OTHER SECTIONS: The above section is cited in § 600.5807.

41.82 Constables; service of legal process; duties.

Sec. 82. Constables shall serve all warrants, notices and process lawfully directed to them by the township board, or the township clerk, or any other officer, and shall perform such other duties as are required of them by law.

HISTORY: CL 1857, 574;—CL 1871, 725;—How. 764;—CL 1897, 2366;—CL 1915, 2146;—CL 1929, 1022;—CL 1948, 41.82.

41.83 Constables; powers.

Sec. 83. Any constable may serve any writ, process or order lawfully directed to him, in any township in his county.

HISTORY: CL 1857, 575;—CL 1871, 726;—How. 765;—CL 1897, 2367;—CL 1915, 2147;—CL 1929, 1023;—CL 1948, 41.83.

41.84 Constables; duties as ministerial officers.

Sec. 84. Constables shall be ministerial officers of justices of the peace, and shall attend upon the sessions of the circuit courts for their respective counties, when notified for that purpose by the sheriff.

HISTORY: CL 1857, 576;—CL 1871, 727;—How. 766;—CL 1897, 2368;—CL 1915, 2148;—CL 1929, 1024;—CL 1948, 41.84.

Secs. 85-89.

HISTORY: CL 1857, 577-81;—CL 1871, 728-32. These sections related to commissioners and overseers of highways and were repealed by Act 242 of 1881.

JUSTICES OF THE PEACE.

41.90 Justices of the peace; oath of office, filing, time.

Sec. 90. Each justice of the peace elected to fill a vacancy, and each justice elected for a term less than 4 years, within 15 days after notice of his election, and each justice of the peace elected for the full term of 4 years, on or before the fourth day of July next after his election, shall take and subscribe his oath of office before some officer authorized to administer oaths, and file the same with the county clerk.

HISTORY: CL 1857, 582;—CL 1871, 736;—How. 767;—CL 1897, 2369;—CL 1915, 2149;—CL 1929, 1025;—Am. 1931, p. 262, Act 169, Eff. Sept. 18;—CL 1948, 41.90.

41.91 Justices; bond, amount, contents, execution.

Sec. 91. Each justice of the peace, before he enters upon the duties of his office, and within the time limited by law for filing his official oath, shall execute, in the presence of the supervisor of his township, or of the county clerk, with 1 or more sufficient sureties, to be approved of by such supervisor or county clerk, an instrument in writing in

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the amount of $1,000.00 or such greater amount but not exceeding $3,000.00, as may be determined by the legislative body of the city or township from which said justice of the peace is elected or appointed, by which such justice and his sureties shall jointly and severally agree to pay to each and every person entitled thereto, all such sums of money as such justice shall become liable to pay, for, or on account of any money which may come into his hands as a justice of the peace, upon demand thereof made by such person, his agent or attorney.

HISTORY: CL 1857, 583;—CL 1871, 737;—How. 768;—CL 1897, 2370;—CL 1915, 2150;—CL 1929, 1026;—Am. 1945, p. 260, Act 193, Imd. Eff. May 17;—CL 1948, 41.91.

See also Sec. 93 of this act, being Compilers' § 41.93.

COST OF BONDS: As to cost of bonds, see Act 130 of 1915, being Compilers' § 41.117.

41.92 Justices; bond, approval, filing; certified copy admissible as evidence.

Sec. 92. Such supervisor or county clerk shall endorse on such instrument, his approval of the sureties therein named, and such justice shall then cause the same to be filed in the office of the county clerk, and a copy of such instrument, certified by such clerk under his hand and seal, shall be presumptive evidence of the contents and execution thereof.

HISTORY: CL 1857, 584;—CL 1871, 738;—How. 769;—CL 1897, 2371;—CL 1915, 2151;—CL 1929, 1027;—CL 1948, 41.92.

41.93 Suit against justice; recovery.

Sec. 93. If any justice of the peace shall fail to comply with such agreement, it shall be competent for any person to whom such justice shall have become liable by reason of such failure, to sue such justice and his sureties, or any of them in assumpsit, and to declare against them generally, for money had and received to the use of the plaintiff, and if the plaintiff on the trial of such suit, shall establish his right to recover, he shall have judgment for principal, interest and costs.

HISTORY: CL 1857, 585;—CL 1871, 739;—How. 770;—CL 1897, 2372;—CL 1915, 2152;—CL 1929, 1028;—CL 1948, 41.93.

See Compilers' 41.91.

41.94 Justices; neglect to file oath of office, penalty.

Sec. 94. If any justice of the peace shall enter upon the execution of his office before having filed his official oath or such agreement as aforesaid, as required by law, he shall forfeit the sum of 100 dollars.

HISTORY: CL 1857, 586;—CL 1871, 740;—How. 771;—CL 1897, 2373;—CL 1915, 2153;—CL 1929, 1029;—CL 1948, 41.94.

COMPENSATION TO TOWNSHIP OFFICERS.

41.95 Township officers; compensation.

Sec. 95. The officers composing the township boards, board of registration, board of health, board of review and inspectors of election shall be entitled to such salary as shall be fixed by the electors at the annual township meeting, and, in case of the neglect or failure of the electors to fix such salary, the officers shall be entitled to the same salary as his predecessor in office received the year before.

Same; compensation, referendum.

In those townships which have abolished the annual township meeting pursuant to the provisions of Public Act No. 283 of the Public Acts of 1955, being section 168.361 of the Compiled Laws of 1948, the salary for officers composing the township board, board of registration, board of review and inspectors of election shall be determined by the township board. If a petition is filed within 30 days after the township board votes such salary, signed by 10% of the qualified electors of the township praying that the question shall be submitted to the electorate, the township board shall call a special election and submit the question of salary to the electors. The vote upon the question of approving such a resolution shall be by a ballot which shall be in substantially the following form:

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"Vote on proposition of approving a resolution of the township board providing a salary of ..... dollars, per annum, to the ....., in lieu of all per diem charges for his services.

Make a cross in the appropriate square.

To approve said resolution. Yes ☐
To approve said resolution. No ☐"

If a majority of the electors voting upon such a resolution shall disapprove the same such officer shall draw the same salary his predecessor in office drew the year before.

Salaried officials.

The salary of township officials who are paid a salary may be determined by resolution adopted by the township board. The electors at any subsequent township meeting may alter the amount of salary fixed by any such resolution. No salaries shall be raised within 60 days prior to an election.

HISTORY: CL 1857, 587;—Am. 1867, p. 234, Act 179, Imd. Eff. Mar. 27;—CL 1871, 741;—How. 774;—CL 1897, 2374;—Am. 1907, p. 116, Act 98, Eff. Sept. 28;—Am. 1911, p. 443, Act 260. (Subject to referendum);—Am. 1915, p. 435, Act 248, Eff. Aug. 24. (Section 2 of the latter amending act expressly repeals Act 260 of 1911);—CL 1915, 2154;—Am. 1917, p. 161, Act 89, Eff. Aug. 10;—Am. 1921, p. 87, Act 57, Eff. Aug. 18;—Am. 1923, p. 462, Act 291, Imd. Eff. May 25;—Am. 1925, p. 282, Act 197, Imd. Eff. May 6;—Am. 1929, p. 101, Act 61, Imd. Eff. April 18;—CL 1929, 1030;—Am. 1933, p. 132, Act 97, Imd. Eff. May 31;—Am. 1937, p. 28, Act 24, Imd. Eff. April 30;—Am. 1941, p. 493, Act 284, Eff. Jan. 10, 1942;—Am. 1943, p. 164, Act 126, Eff. July 30;—CL 1948, 41.95;—Am. 1949, p. 23, Act 25, Imd. Eff. Mar. 29;—Am. 1956, p. 685, Act 223, Eff. Aug. 11;—Am. 1966, p. 115, Act 94, Imd. Eff. Jun. 16.

41.96 Township officers; extra services, compensation.

Sec. 96. For services not otherwise provided for by law, rendered to townships by township officers in the duties of their respective offices, the township board shall audit and allow such compensation as they shall deem reasonable.

HISTORY: CL 1857, 588;—CL 1871, 742;—How. 775;—CL 1897, 2375;—CL 1915, 2155;—CL 1929, 1031;—CL 1948, 41.96.

TOWNSHIP BUSINESS, OTHER THAN ELECTIONS.

41.97 Township meeting; moderator.

Sec. 97. In the transaction of any business in any township meeting, the supervisor, if present, shall be the moderator of the meeting; and if he shall not be present, the meeting, under the direction of the township clerk, shall elect viva voce, a moderator of the meeting: Provided, That the township clerk shall have the same powers and duties as the moderator until a moderator is chosen.

HISTORY: CL 1857, 589;—CL 1871, 743;—How. 776;—CL 1897, 2376;—CL 1915, 2156;—CL 1929, 1032;—CL 1948, 41.97;—Am. 1956, p. 213, Act 105, Eff. Aug. 11.

41.98 Moderator; powers and duties.

Sec. 98. The moderator shall preside in, and regulate the proceedings of the meeting; he shall decide all questions of order, and make public declaration of all votes passed; and when any vote so declared by him shall immediately upon such declaration be questioned by 7 or more of the voters, he shall make the vote certain by polling the voters, or dividing the meeting, unless the township shall, by a previous vote, or by their by-laws, have otherwise provided.

HISTORY: CL 1857, 590;—CL 1871, 744;—How. 777;—CL 1897, 2377;—CL 1915, 2157;—CL 1929, 1033;—CL 1948, 41.98.

41.99 Moderator; granting permission to speak.

Sec. 99. No person shall address the meeting before permission obtained of the moderator, nor while any other person is speaking by his permission; and all persons at such meeting shall be silent at the request of the moderator.

HISTORY: CL 1857, 591;—CL 1871, 745;—How. 778;—CL 1897, 2378;—CL 1915, 2158;—CL 1929, 1034;—CL 1948, 41.99.

41.100 Moderator; order to withdraw from meeting for disorderly conduct.

Sec. 100. If, at any township meeting any person shall conduct himself in a disorderly manner, and, after notice from the moderator shall persist therein, the moderator may order him to withdraw from the meeting; and on his refusal, may order the

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constables, or any other persons to take him into custody until the meeting be adjourned.

HISTORY: CL 1857, 592;—CL 1871, 746;—How. 779;—CL 1897, 2379;—CL 1915, 2159;—CL 1929, 1035;—CL 1948, 41.100.

41.101 Disorderly conduct; penalty.

Sec. 101. Any person who shall refuse to withdraw from such meeting, on being ordered by the moderator to do so, as provided in the preceding section, shall, for every such offense, forfeit a sum not exceeding 20 dollars.

HISTORY: CL 1857, 593;—CL 1871, 747;—How. 780;—CL 1897, 2380;—CL 1915, 2160;—CL 1929, 1036;—CL 1948, 41.101.

QUALIFICATIONS OF VOTERS AND OFFICERS.

41.102 Township electors; qualifications, right to vote, challenge.

Sec. 102. Each inhabitant of any township, having the qualifications of an elector, as specified in the constitution of this state and in statutes enacted thereunder, and no other person, shall have a right to vote on all matters and questions before any township meeting, and when any person claiming the right to vote shall be challenged by a voter, the moderator shall proceed in the same manner as on challenges at the election of township officers.

HISTORY: CL 1857, 594;—CL 1871, 748;—How. 781;—CL 1897, 2381;—CL 1915, 2161;—CL 1929, 1050;—CL 1948, 41.102;—Am. 1963, 2nd Ex. Sess., p. 9, Act 1, Imd. Eff. Dec. 27.

41.103 Elective township office; eligibility.

Sec. 103. No person except a citizen of the United States and an elector as aforesaid shall be eligible to any elective office contemplated in this chapter: Provided, however, That any female person of or above the age of 21 years, who has resided in this state 6 months and in the township 20 days next preceding any election, shall be eligible to the office of school inspector.

HISTORY: CL 1857, 595;—CL 1871, 749;—Am. 1879, p. 183, Act 199, Eff. Aug. 30;—Am. 1881, p. 155, Act 158, Eff. July 1;—How. 782;—Am. 1897, p. 67, Act 57, Eff. Aug. 30;—CL 1897, 2382;—CL 1915, 2162;—CL 1929, 1051;—CL 1948, 41.103.

Sec. 104 contained special provisions relative to cities of Detroit and Monroe, and long since became obsolete.

R.S. 1846, Ch. 17.

DIVISION OF TOWNSHIPS.

41.111 Division of township; disposition of lands.

Sec. 1. When a township seized of lands shall be divided into 2 or more townships, the township boards of the several townships constituted by such division, shall meet as soon as may be after the first township meetings subsequently held in such townships, and when so met shall have power to make such agreement concerning the disposition to be made of such township lands, and the apportionment of the proceeds in case of a sale thereof, as they shall think equitable, and to take all measures, and execute all conveyances which may be necessary to carry said agreement into effect.

HISTORY: CL 1857, 596;—CL 1871, 761;—How. 788;—CL 1897, 2407;—CL 1915, 2198;—CL 1929, 2326;—CL 1948, 41.111.

TOWNSHIPS AND CITIES: For provisions relative to divisions between townships and cities, see Compilers' §§ 123.1 to 123.10.

41.112 Annexation of township; disposition of lands.

Sec. 2. When a township shall be altered in its limits by annexing a part of its territory to another township or townships, the township board of the township from which such territory shall be taken, and of the township or townships to which the same shall be annexed, shall, as soon as may be after such alteration, meet for the purpose, and possess the powers provided in the preceding section.

HISTORY: CL 1857, 599;—CL 1871, 762;—How. 789;—CL 1897, 2408;—CL 1915, 2199;—CL 1929, 2327;—CL 1948, 41.112.

41.113 Division of township; sale of lands; apportionment of proceeds.

Sec. 3. If no agreement for the disposition of such lands shall be made by the township boards within 6 months after such alteration or division, then the township board of each township in which any portion of such lands shall lie, shall proceed as soon as may be thereafter, to sell and convey such part of said lands as shall be included

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within the limits of such township; and the proceeds arising from such sale shall be apportioned between the several townships interested therein, by the township boards of all such townships, according to the amount of taxable property in the township divided or altered, as it existed immediately before such division or alteration, to be ascertained by the last assessment roll of such township.

HISTORY: CL 1857, 600;—CL 1871, 763;—How. 790;—CL 1897, 2409;—CL 1915, 2200;—CL 1929, 2328;—CL 1948, 41.113.

41.114 Division of township; apportionment of personalty.

Sec. 4. When a township possessed of, or entitled to money, rights and credits, or other personal estate, shall be so divided or altered, such moneys, rights, credits and personal estate, including moneys belonging to the township, in the hands of township officers, shall be apportioned between the townships interested therein, by the township boards of such townships according to the rule of apportionment above prescribed; and they shall meet for that purpose as soon as may be after the 1st township meetings subsequently held in such townships.

HISTORY: CL 1857, 601;—CL 1871, 764;—How. 791;—CL 1897, 2410;—CL 1915, 2201;—CL 1929, 2329;—CL 1948, 41.114.

41.115 Township boards; meeting, notice.

Sec. 5. Whenever a meeting of the township boards of 2 or more townships shall be required, in order to carry into effect the provisions of this chapter, such meeting may be called by either of the supervisors; but the supervisor calling the same shall give at least 6 days notice in writing to all the other officers, of the time and place at which such meeting is to be held.

HISTORY: CL 1857, 602;—CL 1871, 765;—How. 792;—CL 1897, 2411;—CL 1915, 2202;—CL 1929, 2330;—CL 1948, 41.115.

41.116 Burial grounds; exemption.

Sec. 6. The preceding sections of this chapter shall not apply to any cemetery or burying ground belonging to a township, but the same shall belong to the township within which it may be situated, after a division shall have been made.

HISTORY: CL 1857, 603;—CL 1871, 766;—How. 793;—CL 1897, 2412;—CL 1915, 2203;—CL 1929, 2331;—CL 1948, 41.116.

41.117 Division of township; apportionment of debts.

Sec. 7. Debts owing by a township so divided or altered, shall be apportioned in the same manner as the personal property of such township; and each township shall thereafter be charged with, and pay its share of the debts, according to such apportionment.

HISTORY: CL 1857, 604;—CL 1871, 767;—How. 794;—CL 1897, 2413;—CL 1915, 2204;—CL 1929, 2332;—CL 1948, 41.117.

41.118 Township boards; refusal or failure to act; liability to action; villages, cities.

Sec. 8. In case the township board or boards of any townships, or the proper board of officers of any township or city, shall neglect or refuse to meet as provided in the preceding sections of this chapter, or having met shall refuse or neglect to arrive at a settlement of the matters and things in difference between them, as provided in this chapter, the township or city whose board shall so refuse or neglect, shall be liable to an action for an accounting and settlement in a suit in chancery in accordance with the practice therein in the same manner and to the same effect as may be had between individuals or private corporations. And all the provisions of this chapter relative to settlements between townships on a division thereof, shall be applicable to villages and cities, so far as the same can apply.

HISTORY: Add. 1881, p. 42, Act 46, Eff. Sept. 10;—How. 795;—CL 1897, 2414;—CL 1915, 2205;—CL 1929, 2333;—CL 1948, 41.118.

41.121-41.123 Repealed. 1951, p. 49, Act 46, Imd. Eff. May 14.

Sections related to board meetings in certain townships.

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Act 200, 1849, p. 24; Imd. Eff. Mar. 31.

AN ACT to authorize township boards to raise money by tax, or by borrowing, in certain cases, to defray township expenses. Am. 1917, p. 49, Act 24, Eff. Aug. 10.

The People of the State of Michigan enact:

41.131 Emergency expenses; township borrowing power, procedure.

Sec. 1. Whenever the qualified electors of any township, at the annual township meeting, neglect or refuse to vote such sums of money as may be necessary to defray the ordinary township expenses, or to meet any emergency expenses, the township board, at any regular meeting, may vote such sums as may be necessary for that purpose, not exceeding in any 1 year the sum of 1/2 of 1% of the assessed valuation, and the township board may authorize and direct, by resolution, the supervisor and township clerk to borrow such sum as may be necessary, not exceeding $4,000.00 in any 1 year, for the payment of such expenses and to issue the obligations of the township therefor. In townships having an assessed valuation of $10,000,000.00 or over, the township board may authorize the supervisor and township clerk to borrow not to exceed $12,500.00 in any 1 year.

HISTORY: CL 1857, 597;—CL 1871, 751;—How. 750;—Am. 1887, p. 66, Act 60, Imd. Eff. Apr. 9;—CL 1897, 2349;—CL 1915, 2128;—Am. 1917, p. 49, Act 24, Eff. Aug. 10;—Am. 1919, p. 227, Act 121, Eff. Aug. 14;—CL 1929, 1052;—CL 1948, 41.131;—Am. 1964, p. 86, Act 85, Imd. Eff. May 12.

Act 194, 1929, p. 513; Imd. Eff. May 20.

AN ACT to authorize certain townships to borrow money to pay to the county treasurer any deficiency in amounts of special assessments.

The People of the State of Michigan enact:

41.141 Deficiency in special assessments; borrowing.

Sec. 1. Any township whose assessed valuation is 1,000,000 dollars or more may, by a resolution adopted by a majority of the members of its township board, borrow the amount necessary to pay the county treasurer any deficiency in the amount of any special assessments for highway or drain purposes, assessed against the township at large, not to exceed the total of such special assessments returned delinquent.

HISTORY: CL 1929, 1053;—Am. 1931, p. 120, Act 73, Imd. Eff. May 7;—CL 1948, 41.141.

Act 122, 1915, p. 204; Eff. Aug. 24.

AN ACT to authorize and empower township boards to issue orders bearing interest at the rate of 6 per cent or less per annum in certain cases.

The People of the State of Michigan enact:

41.151 Interest-bearing orders; issuance by township; amount.

Sec. 1. When a portion of the taxes authorized by the electors of a township at any annual meeting thereof, either for general township purposes or specific purposes, shall be delinquent, the township board is hereby authorized and empowered to issue orders bearing interest at 6 per cent or less per annum, which orders shall not exceed in the aggregate the amounts in the respective funds so authorized.

HISTORY: CL 1915, 2197;—CL 1929, 1054;—CL 1948, 41.151.

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Act 29, 1937, p. 37; Imd. Eff. May 4.

AN ACT authorizing the township board of the several townships of this state to transfer unexpended balances in special funds to the contingent fund of the township; to provide for the disbursement thereof; to prescribe the powers and duties of the township treasurers with respect thereto; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

41.161 Transfer of unexpended balances of special township funds to contingent fund; authority of township board.

Sec. 1. The township board of the several townships of this state is hereby authorized at the annual meeting of such township board, by resolution, to transfer the unexpended balances in any special township fund to the contingent fund of the township, after provision has been made for the payment of all unpaid warrants or orders drawn on said fund and for all claims and accounts then existing which, when audited and allowed, would be payable out of such funds to be disbursed from such contingent fund for the purposes authorized by law for disbursements from the contingent fund of the township. Such transfer to be specifically shown in the published annual statement of said township.

HISTORY: CL 1948, 41.161.

41.162 Transfer of unexpended balances; authority of township treasurer.

Sec. 2. The township treasurer of any such township is hereby directed and authorized to provide for the transfer of funds when and as authorized by the township board under the provisions of section 1 of this act.

HISTORY: CL 1948, 41.162.

41.163 Transfer of unexpended balances; limitation.

Sec. 3. No township board shall transfer the unexpended balance of any township fund under the provisions of this act, where unpaid bonds payable from said fund are still outstanding.

HISTORY: CL 1948, 41.163.

Sec. 4. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Act 262, 1897, p. 394; Eff. Aug. 30.

AN ACT to require township boards to make and publish annually an itemized statement of the condition of the finances of the township, in relation to the receipts and disbursements made by the township board.

The People of the State of Michigan enact:

41.171 Annual township financial statements; contents, publication, distribution.

Sec. 1. The township boards of the several townships of this state shall make and cause to be published annually, immediately upon the settlement of the township board, an itemized statement of first, the amount of money in the hands of the township treasurer at the beginning of the fiscal year, specifying the amount in the several funds; second, the amount and source of all money placed to the credit of the township and the fund to which the same has been accredited; third, all bills audited and allowed by them; fourth, all disbursements of money made by them, and for what pur-

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pose, to whom paid and from what fund the same has been paid; fifth, all outstanding unpaid claims and to what fund the same are charged; sixth, the balance of money remaining to the credit of the township, specifying the amount in the several funds. The said itemized statement shall be written or printed and distributed in numbers of not less than 6 copies and also post 6 copies of said statement in conspicuous places, said distribution and posting to be made at least 10 days prior to every annual township meeting. The board may, at its discretion, order further publication of said statement by requiring its publication in 1 issue of a newspaper of general circulation in the county. It shall be the duty of township clerk to carry out the provisions of this section as to publication.

HISTORY: CL 1897, 2350;—CL 1915, 2129;—Am. 1927, p. 487, Act 251, Eff. Sept. 5;—CL 1929, 1038;—Am. 1933, p. 92, Act 78, Eff. Oct. 17;—CL 1948, 41.171.

FALSE STATEMENTS: See Compilers' § 750.489.

41.172 Township financial statements; expense of publication, payment.

Sec. 2. That the expense of carrying out the provisions of this act shall be a charge against and shall be audited and allowed by the township board and paid out of the general fund of such township.

HISTORY: CL 1897, 2351;—CL 1915, 2130;—CL 1929, 1039;—CL 1948, 41.172.

41.173 Noncompliance with act; penalty.

Sec. 3. The failure on the part of the township board to comply with the provisions of this act shall be deemed to be a misdemeanor on the part of all the individual members of such township board not voting therefor and shall be punished by a fine of not more than 25 dollars or by imprisonment in the county jail, for a period of not more than 30 days, or by both such fine and imprisonment in the discretion of the court, upon the complaint of any taxpayer within such township.

HISTORY: CL 1897, 2352;—CL 1915, 2131;—CL 1929, 1040;—CL 1948, 41.173.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 2132;—CL 1929, 1041;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 246, 1945, p. 342; Eff. Sep. 6.

AN ACT to authorize township boards to adopt ordinances and regulations to secure the public health, safety and general welfare; to provide for the establishment of a township police department; to provide for policing of townships by the county sheriff; to provide penalties; and to repeal all acts and parts of acts in conflict therewith. Am. 1952, p. 370, Act 224, Eff. Sep. 18;—Am. 1963, p. 38, Act 39, Eff. Sep. 6.

The People of the State of Michigan enact:

41.181 Township ordinances; adoption by township board, subjects, provision of penalties for violation; enforcement, police department; duty of sheriff.

Sec. 1. The township board of a township may, at a regular or special meeting by a majority of the members elect of the township board, adopt ordinances regulating the public health, safety and general welfare of persons and property, fire protection, the licensing or use of bicycles, traffic and parking of vehicles, sidewalk maintenance and repairs, the licensing and regulating of hawkers, vendors, peddlers, solicitors, circuses, carnivals and public amusements, and provide penalties for the violation thereof, and shall enforce the same and may for that purpose employ and establish a police department with full power and authority to enforce all local township ordinances and state laws, provided that in the event state laws are to be enforced, such townships shall have a law enforcement unit composed of at least 1 full time person, all members of

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which shall have at least 2 weeks prior police work experience or its equivalent as approved by the township board or may by resolution appropriate funds and call upon the sheriff of the county in which the township is located to provide special police protection for the township. It shall be the duty of the sheriff, when so called upon, to provide special police protection for the township and to enforce all local township ordinances, to the extent that township funds are appropriated therefor. Special township deputies appointed by the sheriff shall be under the jurisdiction of and solely responsible to the sheriff. Ordinances regulating traffic and parking of vehicles shall not be in contravention of the provisions of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

Ordinances, application; contributions for enforcement.

Ordinances so enacted may apply to the streets, roads, highways, or portions of the township as shall be determined by the board, or may be limited to specified platted lands within the township, and with respect thereto shall be valid and enforceable whether the roads and streets therein have been dedicated to public use or not. Township boards of townships enacting ordinances hereunder may accept contributions from duly constituted representatives of the platted lands benefited by such ordinances, to defray all administrative and enforcement costs incident thereto.

HISTORY: CL 1948, 41.181;—Am. 1952, p. 370, Act 224, Eff. Sep. 18;—Am. 1953, p. 86, Act 87, Eff. Oct. 2;—Am. 1955, 1st Ex. Ses., p. 818, Act 5, Imd. Eff. Nov. 10;—Am. 1959, p. 56, Act 55, Imd. Eff. Jun. 2;—Am. 1961, p. 20, Act 18, Eff. Sep. 8;—Am. 1963, p. 38, Act 39, Eff. Sep. 6;—Am. 1968, p. 511, Act 300, Imd. Eff. Jul. 1;—Am. 1969, p. 30, Act 17, Imd. Eff. Jun. 5.

41.182 Township ordinances; publication.

Sec. 2. Said ordinances shall be published as provided in Act No. 191 of the Public Acts of 1939.

HISTORY: CL 1948, 41.182.

NOTE: Act 191, 1939, above referred to, is Compilers' §§ 41.191-41.192.

41.183 Penalties for violations; institution of prosecutions in municipal or district courts; payment of costs.

Sec. 3. (1) The township board may in such ordinances provide a penalty for violation thereof, of a fine not exceeding $500.00, or by imprisonment in the county jail not to exceed 90 days, or by both such fine and imprisonment.

(2) If the township lies within a district served by 1 or more municipal courts, prosecutions for the violation of such ordinances shall be instituted in any one of the municipal courts of the district, and in such cases the same right to appeal to the circuit courts shall exist as in cases of violations of the state law cognizable by the municipal court in which the prosecution is instituted. Fines, penalties and forfeitures shall be payable in the same manner and to the same fund as fines for the violation of the laws of the state. Costs shall be paid and reported by such municipal courts in the same manner as is provided for offenses under state law where the prosecution is instituted in a municipal court.

(3) If the township lies within a district served by the district court, prosecutions for the violation of such ordinances shall be instituted in the district court, unless the person accused of violating such an ordinance enters a plea of guilty before a magistrate or a traffic bureau as otherwise provided and authorized by law. Fines and costs imposed or assessed in such an action shall be distributed in accordance with section 8379 of Act No. 236 of the Public Acts of 1961, as added, being section 600.8379 of the Compiled Laws of 1948.

HISTORY: CL 1948, 41.183;—Am. 1969, p. 762, Act 335, Imd. Eff. Nov. 10.

Sec. 4. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Sec. 5. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

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Act 191, 1939, p. 364; Imd. Eff. Jun. 8.

AN ACT to provide for the publication of all ordinances passed by any township, to fix the limits of the penalty imposed by such ordinance and for the record thereof.

The People of the State of Michigan enact:

41.191 Township ordinances; manner of publication; effective date.

Sec. 1. In all cases where it shall be lawful for any township to pass an ordinance, such ordinance shall contain a provision stating when such ordinance shall take effect. And if an ordinance shall impose a penalty for the violation of any provision thereof, such ordinance shall not take effect until 30 days shall have elapsed after the first publication of such ordinance.

Publication of such ordinance shall be made by causing a true copy thereof to be inserted once in some newspaper circulating within said township, which insertion shall be made within 10 days after the passage thereof.

No penalty imposed shall exceed that imposed by the general law for misdemeanors.

Any ordinance not imposing a penalty for the violation thereof shall take effect immediately after the date of the publication thereof.

HISTORY: CL 1948, 41.191.

CITED IN OTHER SECTIONS: The above section is cited in § 125.281.

41.192 Ordinances; township clerk to record passage and publication.

Sec. 2. Within 1 week after the first publication of any ordinance as herein provided, the township clerk shall record the said ordinance in a book of ordinances kept by him for that purpose and record the date of the passage thereof, the names of the members voting thereon and how any member voted. Said clerk shall also under the said ordinance in a blank space provided therefor make and sign a certificate stating the date or dates of publication thereof and the name of the newspaper in which such publication was made.

HISTORY: CL 1948, 41.192.

Act 50, 1919, p. 78; Imd. Eff. Mar. 31.

AN ACT to provide for the appointment of traffic officers in townships and defining their powers and duties, and providing for their compensation.

The People of the State of Michigan enact:

41.201 Traffic officers; appointment, payment of compensation.

Sec. 1. The township board of any township may, by a majority vote of the township board at any regular meeting or any special meeting called for that purpose, provide for the employment of a traffic officer or officers in such township, the compensation of such officer or officers to be paid from the general fund of such township: Provided, That 2 or more townships may, by a majority vote of all the township boards, appoint such officer at a joint meeting of such township boards held for that purpose, and the proportion of the compensation of such traffic officer or officers to be paid by each of such townships shall be determined at such joint meeting.

HISTORY: CL 1929, 1055;—CL 1948, 41.201.

41.202 Traffic officers; powers, compensation and service.

Sec. 2. Whenever any traffic officer shall be appointed under the provisions of this act, such traffic officer shall be vested with all powers of arrest, and other powers,

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now vested by law in deputy sheriffs. The compensation and service of such officers shall be determined by the township board or boards.

HISTORY: CL 1929, 1056;—CL 1948, 41.202.

Act 36, 1933, p. 38; Imd. Eff. Mar. 27.

AN ACT to authorize township boards to provide polling places located within the limits of a city and to authorize the casting of ballots at such polling places.

The People of the State of Michigan enact:

41.211 Township polling places; location within city.

Sec. 1. Township boards are hereby authorized to provide polling places located within the limits of a city which has been incorporated from territory formerly a part of such township, and the electors of such township may cast their ballots at such polling place.

HISTORY: CL 1948, 41.211.

Act 45, 1941, p. 41; Eff. Jan. 10, 1942.

AN ACT to provide for the use by the township, for township purposes, of any building or buildings owned by the said township, but located at the present time within the corporate limits of any incorporated village or city, which includes within its limits, lands upon which said building or buildings are located and formerly forming a part of said township.

The People of the State of Michigan enact:

41.221 Township buildings; location within cities; use by township.

Sec. 1. Whenever a township in this state shall be the owner of lands within said township upon which are located building or buildings used for township purposes, which lands subsequent to the erection of said building or buildings were included within the limits of any incorporated village or city, the said township is hereby authorized and empowered to use said building or buildings for any and all township purposes, including elections, and any and all resolutions or actions by the said township, or any of its officers, in said building or buildings shall be as legal in all respects as though said building or buildings were located within the corporate limits of said township.

HISTORY: CL 1948, 41.221.

Act 157, 1867, p. 214; Eff. Jun. 27.

AN ACT to define and limit the amount of money which may be granted and voted by the qualified electors of townships for the purpose of erecting town halls or other buildings for the public use of the inhabitants thereof.

The People of the State of Michigan enact:

41.231 Township buildings; appropriation for construction; notice, meeting, vote.

Sec. 1. That the inhabitants of each township may at any legal meeting, by a vote of the qualified electors thereof, grant and vote any sum of money, not exceeding 1 per cent, in any 1 year, upon the assessed valuation of the taxable real and personal estate

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of such townships, as appears by the last equalized and perfected taxroll of the townships, for the purpose of erecting a town hall or other building or buildings required for the public use of such inhabitants, in whole or in part, for township purposes: Provided, That no such vote shall be taken, nor appropriation made at such legal meeting of any township, unless a notice of intention to move for such a vote and appropriation, signed by at least 12 freeholders of such township, shall have been posted up in 5 of the most public places in such township, at least 10 days previous to the day of such meeting, which said notice shall specify the amount to be raised for such purpose: And provided, further, That no moneys shall be raised by tax, until a majority of the qualified electors, voting at such meeting, shall by ballot authorize the same.

HISTORY: CL 1871, 760;—How. 672;—CL 1897, 2270;—CL 1915, 2049;—CL 1929, 2366;—CL 1948, 41.231.

41.232 Rescinding action; allocation of tax levy, vote.

Sec. 2. In case the township board in any township where a tax has been levied and collected as provided in the preceding section deems it unwise for any reason to erect a town hall or such other building for which such tax was levied, a vote may be taken of the qualified electors of the township in the same manner as provided in the preceding section and the question submitted to the qualified electors whether the tax levy so raised shall be appropriated to the redemption of township highway bonds or to the purpose of township highway construction in the manner as provided in the general highway laws. If the majority of the qualified electors shall vote in favor of the proposition of appropriating said money so levied to the redemption of township highway bonds or to the purpose of highway construction as aforesaid, then the moneys so levied shall be expended for such purpose and not for the original purpose of erection of town hall or other building.

HISTORY: Add. 1921, p. 295, Act 135, Eff. Aug. 18;—CL 1929, 2367;—CL 1948, 41.232.

Act 135 of 1921, in referring to CL 1915 compilation numbers included 2049-2056, instead of referring to 2049 alone. CL 1915, 2050-2056, comprise Secs. 4-7 of Ch. 16 of R.S. 1846.

Act 381, 1927, p. 905; Eff. Sep. 5.

AN ACT to authorize the issue of bonds to provide sites for and for the erection thereon of town halls, fire stations, libraries or other buildings required for the public use in whole or in part, for township purposes or for the purpose of acquiring a site with buildings thereon and furnishing a town hall, fire station, library or other building or buildings required for the public use of such inhabitants in whole or in part for township purposes or for additions to and improvements of such sites and the buildings thereon, whether now existing or hereafter acquired, in any township in this state, and for the raising by townships of money for the maintenance, upkeep or repairs of the township hall, fire station, library or other public buildings of the township, and for the repeal of Act No. 397 of the Public Acts of 1921. Am. 1961, p. 36, Act 36, Imd. Eff. May 18;—Am. 1963, p. 326, Act 216, Eff. Sep. 6.

The People of the State of Michigan enact:

41.241 Township buildings; issuance of bonds for construction, improvement or purchase; amount.

Sec. 1. The township board of any organized township in this state, upon application being first filed with such township board, signed by at least 12 freeholders of such township, may borrow a sum of money, not exceeding 2-1/2% of the assessed valuation of such township according to the assessed valuation of all the real and personal property of said township for the preceding year, on the faith and credit of such township, and to issue the bonds of such township therefor, the moneys so borrowed to be

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used for the purpose of acquiring a site for and erecting and furnishing a town hall, fire station or library or for the purpose of making additions and improvements to such sites and town halls, fire stations or libraries whether now existing or hereafter acquired, or for the purpose of purchasing a building or site to be used for a town hall, fire station or library and furnishing and equipping the same.

HISTORY: CL 1929, 2368;—CL 1948, 41.241;—Am. 1961, p. 36, Act 36, Imd. Eff. May 18;—Am. 1963, p. 326, Act 216, Eff. Sep. 6.
FORMER ACT: Act 397 of 1921.
BORROWING LIMIT: See Sec. 1 of Act 157 of 1867, being Compilers' § 41.231.

41.241a Acquisition of real estate; referendum.

Sec. 1a. The township may acquire title to real estate in fee simple or a lesser interest or estate by purchase subject to the referendum requirement of section 2.

HISTORY: Add. 1961, p. 258, Act 182, Eff. Sep. 8.

41.242 Referendum proceedings; ballot, form; notice.

Sec. 2. Upon the filing of such application with such township board the township board shall first determine whether the same has been signed by at least 12 freeholders of such township, and if the township board shall determine that the same has been signed by 12 freeholders of the township, and that the sum of money stated in such application does not exceed the percentage of assessed valuation above specified, thereupon the said township board shall by resolution provide for the submission of such proposition to the legal voters of the township at such township meeting, general election or at a special election to be held within 30 days after the adoption of such resolution, and in such resolution the township board shall prescribe the form of ballot to be used in voting upon such proposition, and shall determine whether such proposition shall be voted upon at a special election to be called by the township board for that purpose, or at the annual election and such township board shall also, in its resolution, direct the township clerk of such township to give notice of such proposition and of the vote to be taken thereon, by posting notices signed by said clerk in not less than 3 public and conspicuous places in each election district of such township, not less than 20 days before such annual township meeting or general or special election, and which said notice shall set forth the form of the ballot to be voted upon said proposition at such annual meeting or general or special election, and if such proposition is to be voted upon at a special election, the said township board in and by such resolution shall call such election and provide for the same and such notice so to be given by the township clerk shall also give notice that such special election has been called by such township board.

HISTORY: CL 1929, 2369;—CL 1948, 41.242.

41.243 Election procedure.

Sec. 3. Such annual meeting or general or special election, to be held within 60 days after adoption of the resolution, relative to the voting upon such proposition, shall be conducted and the vote shall be canvassed in the same manner as is provided by law for ordinary township elections.

HISTORY: CL 1929, 2370;—CL 1948, 41.243;—Am. 1952, p. 164, Act 143, Eff. Sep. 18.

41.244 Issuance of bonds; authorization.

Sec. 4. Whenever any township shall have voted to borrow any money and issue bonds as in this act provided, the township board of such township is hereby authorized to issue the bonds of such township in accordance with Act 273 of the Public Acts of 1925 and amendments thereto.

HISTORY: CL 1929, 2371;—CL 1948, 41.244.
NOTE: Act 273 of 1925, above referred to, has been repealed and superseded by Act 202, 1943, being Compilers' § 131.1 et seq.

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41.245 Bonds; tax levy for principal and interest.

Sec. 5. Whenever any bonds issued by any township of this state under the provisions of this act shall have been sold, the township board of such township is hereby authorized to and shall in each year, impose a tax upon the taxable property of such township for the purpose of paying such sums of money as shall become due before the collection of the taxes of the next succeeding year upon the principal of such bonds, or any part thereof, and the interest thereon, to be levied and collected as other township taxes are collected.

HISTORY: CL 1929, 2372;—CL 1948, 41.245.

41.246 Township buildings; tax levy for maintenance and repairs.

Sec. 6. Any township of this state may at any annual township meeting vote a tax upon the property of such township of not to exceed 1/20 of 1% of the assessed valuation of such township according to the assessed valuation of all the real or personal property of said township of the preceding year and the money so raised shall be used by the township board for the maintenance, upkeep or repairs of the township hall, fire station, library or other public buildings of the township.

HISTORY: CL 1929, 2373;—CL 1948, 41.246;—Am. 1961, p. 37, Act 36, Imd. Eff. May 18;—Am. 1963, p. 326, Act 216, Eff. Sep. 6.

41.246a Libraries; purchase of sites and buildings, construction, maintenance.

Sec. 6a. The township board of any organized township may purchase sites and buildings for libraries, or lease, construct, and remodel, add to and maintain building or space for libraries.

HISTORY: Add. 1963, p. 326, Act 216, Eff. Sep. 6.

41.247 Repeal; saving clause.

Sec. 7. Act No. 397 of the Public Acts of the state of Michigan for the year 1921, is hereby repealed: Provided, however, That in case any proceedings shall have been taken by any township under said law, the said proceedings shall be valid, and continue under the provision of this act.

HISTORY: CL 1929, 2374;—CL 1948, 41.247.

Act 264, 1917, p. 686; Eff. Aug. 10.

AN ACT to authorize township boards to provide for the lighting of highways and bridges outside of the limits of incorporated cities and villages by artificial means, and to provide for the payment of the expense so incurred. Am. 1927, p. 368, Act 178, Eff. Sep. 5;—Am. 1939, p. 98, Act 57, Eff. Sep. 29.

The People of the State of Michigan enact:

41.251 Lighting of township highways and bridges; expense, apportionment; construction of act.

Sec. 1. The township board of any township may vote a sum to provide for the lighting by artificial means of any of the highways and bridges in such township, located outside of the limits of incorporated villages, the expense of such lighting to be paid out of the contingent fund of the township. Where any highway or bridge is situated in or between 2 or more townships, such provision shall be made by a majority vote of all of the township boards in which the highway is situated, at a joint meeting of the township boards, held for that purpose, and the proportion of the expense to be paid by each of the townships shall be determined at the joint meeting. This act for reasons of public safety shall be construed to authorize the lighting of any state trunk line

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highway, county road or any platted road or street outside the limits of incorporated villages whether such road or street has been dedicated to the public use or not.

HISTORY: Am. 1923, p. 94, Act 69, Eff. Aug. 30;—Am. 1927, p. 368, Act 178, Eff. Sep. 5;—CL 1929, 2415;—Am. 1931, p. 362, Act 210, Eff. Sep. 18;—Am. 1933, p. 183, Act 129, Eff. Oct. 17;—Am. 1939, p. 98, Act 57, Eff. Sep. 29;—Am. 1947, p. 212, Act 151, Eff. Oct. 11;—CL 1948, 41.251;—Am. 1960, p. 19, Act 22, Eff. Aug. 17;—Am. 1968, p. 103, Act 64, Imd. Eff. May 28;—Am. 1969, p. 733, Act 324, Eff. Nov. 1.

41.252 Lighting of highways and bridges; supervision; power of board to contract for service.

Sec. 2. When provision for lighting any highway or bridge shall have been made in accordance with section 1 of this act, it shall be the duty of the supervisor of such township to have general supervision over the installing and maintenance of such lighting system, under the direction of the township board: Provided, That where any such highway or bridge shall be situated in or between 2 or more townships, it shall be determined at the joint meeting of such township boards which one of the township supervisors shall have such supervision. The township board, or in case of highways or bridges located in or between 2 or more townships, then the township boards of all of the townships affected, shall be authorized to contract for a period of time not exceeding 10 years, with any person, firm or corporation for furnishing such highway or bridge lighting by artificial means, upon such terms and conditions as may be agreed.

HISTORY: Am. 1927, p. 368, Act 178, Eff. Sept. 5;—CL 1929, 2416;—Am. 1933, p. 184, Act 129, Eff. Oct. 17;—Am. 1939, p. 98, Act 57, Eff. Sept. 29;—CL 1948, 41.252.

41.253 Lighting of highways and bridges; special assessment district, creation; notice, publication; hearing.

Sec. 3. The township board or boards mentioned in section 1 hereof may either on its or their own motion, or upon petitions signed by not less than 10 freeholders in the district described upon the petitions to be lighted, order the expenses for lighting such highways to be defrayed by a special assessment on all the taxable lands and premises in the territory described in such petition or order of the township board. A part of such expenses may be paid by the township at large and the balance assessed against the lands and premises in said district. The township board shall thereafter estimate the cost and expense of such lighting system and fix a day for hearing on the question of creating such a district and defraying the expenses thereof by special assessment. A notice stating the time, place and purpose of such meeting shall be published in a newspaper of general circulation in the district. If there be no such newspaper circulated therein, then notices shall be posted in at least 3 of the most public places in said district. It shall be published or posted at least 5 days before the date of hearing. On the day appointed for the hearing, the board shall be in session from 7:00 p.m. for at least 2 hours, to hear any objections which may be offered against creating the district.

HISTORY: Add. 1925, p. 47, Act 39, Eff. Aug. 27;—CL 1929, 2417;—Am. 1947, p. 212, Act 151, Eff. Oct. 11;—CL 1948, 41.253;—Am. 1958, p. 110, Act 102, Eff. Sep. 13.

41.254 Special assessment district; determination of boundaries; assessment, amount, collection.

Sec. 4. If the board shall determine to create such a district, they shall determine the boundaries thereof by resolution and direct the supervisor to make a special assessment upon all of the lands and premises therein subject to taxation to defray the expenses of lighting the highways or to defray that portion of the expenses to be assessed against the district. The board shall thereafter annually determine the amount to be assessed in said district for lighting the streets and highways and shall direct the supervisor or assessor to levy such amount therein. Such assessment may be made either in a special assessment roll or in a column provided therefor in the regular tax roll. The as-

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sessment shall be spread and become due and be collected at the same time as the other township taxes are assessed, levied and collected and shall be returned in the same manner for non-payment.

HISTORY: Add. 1925, p. 47, Act 39, Eff. Aug. 27;—CL 1929, 2418;—CL 1948, 41.254.
TAXATION: See Compilers' § 211.1 et seq.

41.255 Rescinding action.

Sec. 5. Any district which has been lighting its streets or highways under the provisions of this act may be relieved therefrom by action of the township board on its own motion or by a petition to the township board as provided in section 3.

HISTORY: Add. 1925, p. 48, Act 39, Eff. Aug. 27;—CL 1929, 2419;—CL 1948, 41.255.

41.256 Saving clause.

Sec. 6. Nothing in this act shall affect Act No. 221 of the Public Acts of 1931 and said act is not repealed.

HISTORY: Add. 1939, p. 99, Act 57, Eff. Sept. 29;—CL 1948, 41.256.
Act 221, 1931, above referred to, is Compilers' §§ 41.261 and 41.262.

41.257 Maintenance of private roads; special assessment districts, establishment.

Sec. 7. The procedures for establishing special assessment districts as provided in this act shall also apply to special assessment districts established under the provisions of Act No. 234 of the Public Acts of 1968, being sections 247.371 to 247.375 of the Compiled Laws of 1948.

HISTORY: Add. 1969, p. 733, Act 324, Eff. Nov. 1.

Act 221, 1931, p. 382; Imd. Eff. May 29.

AN ACT to provide for the lighting, by artificial means, of certain roads, highways and bridges outside of the limits of incorporated cities and villages, and to provide for the payment of the expense so incurred.

The People of the State of Michigan enact:

41.261 Lighting of county highways and bridges; joint action with counties; contracts; appropriations.

Sec. 1. The board of county road commissioners of any county operating under the county road system may provide for the lighting, by artificial means, of roads, highways, and bridges under its jurisdiction, located outside of the limits of incorporated cities and villages. Where deemed advisable the township board or boards of any township or townships in which such county roads, highways and bridges are located may also provide for such lighting, by artificial means. Boards of county road commissioners and township boards may also provide for such lighting by joint action, and by dividing the expense thereof between the county or counties and the township or townships affected as may be determined by joint meeting of said boards. The board of county road commissioners or township board, acting separately or in conjunction with other boards of county road commissioners or with any township board or township boards, may enter into a contract with any individual, firm or corporation for a period not exceeding 10 years for such lighting and upon such terms and conditions as may be agreed upon, and may also contract for the extensions of lines or service to furnish such lighting. The said boards of county road commissioners are authorized to pay from any available highway funds under their control and jurisdiction, such sums as may be required to provide for such extensions and furnish such lighting. If funds are not available, said board of county road commissioners shall submit to the board of supervisors a statement and budget designating the roads, highways and bridges to be

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lighted, and the estimated cost of said lighting. At the next annual meeting of the board of supervisors, held in October, they shall pass upon such statement and budget, and if a majority of such board of supervisors agree therewith, then such sum required shall be apportioned amongst the several townships and cities of said county according to their equalized valuation. The supervisors or other assessing officers in such townships and cities shall levy and apportion the tax so apportioned as provided in this section, to their respective townships and cities, upon which the county taxes are assessed, which shall be collected and paid to the county treasurer and disbursed by him upon orders of said board of county road commissioners, said orders to be signed by the chairman and countersigned by the clerk of said board. It shall be the duty of the board of supervisors to raise a sufficient sum which, together with the other funds available therefor, shall be sufficient to provide such lighting for which the facilities have, under an existing contract, been previously installed and operated.

HISTORY: CL 1948, 41.261.

41.262 Lighting of state trunk line highways; joint or separate action by townships and counties; payment of expenses; effect of act.

Sec. 2. With the approval of the state highway commissioner, boards of county road commissioners and township boards acting together or separately, may, with respect to state trunk line highways and bridges located in whole or in part within their respective counties and townships, provide for the lighting thereof, by artificial means, and contract therefor, in the same manner as for county roads. In such case the entire expense thereof shall be borne by said boards of county road commissioners or township boards, or by both, as may be determined: Provided, That nothing in this act shall affect Act No. 264 of the Public Acts of 1917, as last amended by Act No. 178 of the Public Acts of 1927 and said act is not repealed.

HISTORY: CL 1948, 41.262.

NOTE: Act 264, 1917, above referred to, is Compilers' §§ 41.251-41.256.

Act 246, 1931, p. 426; Eff. Sep. 18.

AN ACT to provide for the construction and maintenance of pavements and/or sidewalks on or along public highways in certain cases. Am. 1945, p. 202, Act 141, Eff. Sep. 6.

The People of the State of Michigan enact:

41.271 Pavements or sidewalks; application by petition; eligibility of signers, certificate of tax status; authority of county road commissioners; highway or public highway, definition.

Sec. 1. Whenever the owners of more than 51% of the lineal frontage of lands outside of the corporate limits of any city or village fronting or touching upon any public highway or portion thereof, desire a pavement or sidewalks built thereon, they may file an application for such improvement with the county road commissioners of the county in which such pavement or sidewalk is proposed to be built. No application for the paving of any highway, or portion thereof, shall be considered unless at least 75% of the lands fronting thereon have been subdivided into parcels having a frontage of not more than 300 feet each on such highway or there shall be an average of at least 1 building, including buildings under construction, located along the portion of such highway proposed to be paved for every 300 lineal feet thereof, according to a survey thereof to be made by the commissioners. The eligibility of signers to any application hereby authorized may be determined by their interest of record in the office of the register of deeds or in the probate court of the county in which such lands are situated

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at the time the petition is presented or by other satisfactory proof of interest presented to the commissioners. Such petition shall be accompanied by a description of the land fronting or touching on the highway owned by each signer and by a certificate of the county treasurer, showing the taxes or special assessments, if any, against such lands which appear delinquent on his books; no name of any signer on the petition shall be considered valid whose land fronting or touching on the highways shows delinquent assessments or taxes on such certificate. Any petition so received by the commissioners or presented to them under the provisions of this act, shall be deemed to confer full authority to cause such work to be done in order that the proper proportion of the expense thereof may be met accordingly. The commissioners shall have all the power of laying out and establishing all such pavements or sidewalks. The words "highway" or "public highway" as used in this act mean any road, street or alley taken over by and under the jurisdiction of the board of county road commissioners.

HISTORY: Am. 1945, p. 202, Act 141, Eff. Sep. 6;—CL 1948, 41.271;—Am. 1951, p. 90, Act 73, Imd. Eff. May 28;—Am. 1960, p. 37, Act 47, Imd. Eff. Apr. 19;—Am. 1967, p. 60, Act 42, Imd. Eff. Jun. 7.

CITED IN OTHER SECTIONS: Sections 41.271 to 41.285 are cited in § 41.925.

41.271a Pavements or sidewalks; application by resolution of township board; declaration of necessity, public hearing; petition for discontinuance.

Sec. 1a. Any township board, by resolution, may make application to the board of county road commissioners for the improvement of a county road or portion thereof located within the township. The resolution when received and accepted by the county road commissioners shall confer the same authority to cause an improvement to be made and benefits assessed as if a petition were filed in accordance with the provisions of section 1. The petition shall not be considered unless it complies with the subdivision and building requirements set forth in section 1 relating to applications by property owners.

A declaration of necessity shall be made by resolution of the board of county road commissioners who shall thereafter hold a public hearing at the township hall upon the declaration of necessity in the same manner as if an application had been filed by property owners as set forth in section 1. After the date of the public hearing on the declaration of necessity, the property owners of 51% or more of the lineal frontage along the proposed improvement may submit within 45 days a petition to the board of county road commissioners requesting that the project be discontinued. The project shall be discontinued if, upon examination, the owners of 51% or more of the lineal frontage along the improvement have signed the petition. If no petition is filed within 45 days, the project shall proceed in the same manner as if inaugurated by property owners.

HISTORY: Add. 1968, p. 94, Act 55, Eff. Nov. 15.

41.272 Pavements or sidewalks; survey, plat; adoption of materials, grade and manner of construction by county road commissioners.

Sec. 2. Upon the filing of such application, the commissioners shall proceed to examine the location, and, if they deem the proposed improvement necessary, shall cause a survey thereof and establish grades and make specifications of the kind of improvement suitable for the purpose, and estimates of the cost thereof to be filed with them by a registered engineer. The said commissioners shall also cause a plat to be made of said proposed improvement and of the lands that may be benefited by the proposed improvement. The commissioners may adopt such kind of material, grade and manner of construction as they shall deem best under the circumstances, and shall assume responsibility for proper inspection during the construction of said proposed improvement.

HISTORY: Am. 1945, p. 202, Act 141, Eff. Sept. 6;—CL 1948, 41.272.

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41.273 Bridges, drains, curbing, culverts and additional rights of way; deemed part of improvement.

Sec. 3. All bridges, road drains, drainage structures, curbing, culverts and any additional right of way required shall be deemed a necessary part of any proposed improvement and the cost and expenses thereof shall be included in the special assessment roll for such improvement.

HISTORY: Am. 1945, p. 202, Act 141, Eff. Sep. 6;—CL 1948, 41.273;—Am. 1951, p. 91, Act 73, Imd. Eff. May 28.

41.274 Pavements or sidewalks; first order of determination, specifications, description of assessment district by county road commissioners; location along state trunk line, approval by state highway commissioner.

Sec. 4. If after such survey, establishment of grades, plans and specifications and estimates of cost have been filed with them, the commissioners shall still be of the opinion that the proposed improvement is necessary for the benefit of the public and is for the benefit of the public welfare and convenience, they shall make their first order of determination and attach a copy of the specifications to such order. These specifications shall not be final but may be changed by the commissioners at any time before the final order is made, but not after the hearing of the objections hereinafter provided for, except after due notice and hearing thereon. The commissioners shall also attach to such order either a description of the boundaries of the proposed assessment district or a description of the several parcels of land which may be liable to assessment for the benefits on account of the proposed improvement: Provided, however, That whenever the proposed improvement is located on a state trunk line, no hearing as above referred to shall be held unless the state highway commissioner shall have been furnished with a written determination of necessity signed by the county road commissioners and a complete file of the plans and specifications, and the approval of the state highway commissioner as to determination, plans and specifications has been obtained.

HISTORY: CL 1948, 41.274.

41.275 Pavements or sidewalks; hearing of objections, notice, contents; change in specifications or boundaries of assessment district, new hearing.

Sec. 5. The commissioners shall hear objections to the proposed improvement at the time and place to be fixed by them either at the office of the commissioners or at some suitable place within the township in which the proposed special assessment district is located: Provided, That the holding of such hearing may be enforced by mandamus in case the commissioners shall fail to hold the hearing within 60 days after the filing of the petition required under section 1 of this act. At this hearing all parties or persons interested shall be given an opportunity to present their objections, if any, to the proposed improvement. Notice of this hearing shall be given by the commissioners by causing a notice thereof to be published at least once in each week for 2 weeks in succession in some newspaper of general circulation in such district, and by posting 5 notices within the limits of such district, in public and conspicuous places therein. Such posting shall be done and at least 1 publication in the newspaper shall be made not less than 10 days prior to such hearing. Such notice shall set forth a description of the boundaries of the proposed special assessment district or the several parcels of land proposed to be assessed on account of such improvement and the time and place of hearing. At this hearing the commissioners shall make any changes in the specifications deemed advisable without further notice or hearing, provided such changes do not increase the estimate more than 10 per cent. If they do increase the estimate more than 10 per cent, then a new hearing shall be had and notice thereof given as in the first instance. At such hearing, the commissioners may alter the boundaries of the proposed assessment district: Provided, however, That if said district is enlarged or other-

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wise altered so as to embrace additional lands, hearing thereon after due notice shall be had as hereinbefore provided.

HISTORY: CL 1948, 41.275;—Am. 1949, p. 247, Act 218, Eff. Sep. 23;—Am. 1951, p. 91, Act 73, Imd. Eff. May 28;—Am. 1952, p. 398, Act 241, Eff. Sep. 18;—Am. 1953, p. 82, Act 84, Imd. Eff. May 18.

41.276 Pavements or sidewalks; liability of petitioners.

Sec. 6. The petitioners for the construction of any improvement under the provisions of this act shall be jointly and severally liable for the costs and expense of proceedings had, but not for any portion of the construction of the improvement, in case the proceedings therefor shall be dismissed for any cause where the county road commissioners have incurred expense because of such petition.

HISTORY: Am. 1945, p. 203, Act 141, Eff. Sept. 6;—CL 1948, 41.276.

41.277 Pavements or sidewalks; final order of determination, attachment of specifications.

Sec. 7. Within 30 days after hearing objections, if the commissioners shall deem the proposed improvement necessary for the benefit of the public welfare and convenience, they shall make their final order in writing, under their hands, determining that the proposed improvement shall be made according to the final specifications adopted by them, a copy of which specifications shall be attached to said order.

HISTORY: CL 1948, 41.277;—Am. 1952, p. 398, Act 241, Eff. Sep. 18.

41.278 Contracts for construction of improvement; bids, notice, procedure; commencement of construction.

Sec. 8. On the making of the said final order, the commissioners shall proceed to let the contract for the construction of the proposed improvement to the lowest responsible bidder, said bidder to furnish adequate security for the performance of the same, in a sum to be fixed by the commissioners: Provided, That no contract shall be let or rolls spread under the provisions of this act when 25 per cent or more of the total tax levied for all purposes upon real property within the assessment district shall have been delinquent for 1 or more years. The commissioners shall give notice of the letting of such contract by publishing a notice thereof in some newspaper of general circulation in the county, at least once in each week for 2 weeks, and may publish notice thereof in other newspapers if they shall deem the same advisable. At least 1 publication of the notice shall be made not less than 10 days prior to the date of letting. They may reserve the right to reject any and all bids. If rejected, the same procedure for obtaining bids shall be repeated, or if deemed advisable by the commissioners, they shall proceed with the construction of said proposed improvement in the same manner and with the same authority, when applicable, as they have to build roads under the provisions of the county road law. After the bids have been received or as soon thereafter as practicable, the commissioners shall enter into the necessary contract for the construction of the proposed improvement with the party whose bid shall be accepted by them and who shall have furnished the bonds required. The commissioners shall take such action as may be necessary to commence construction of the proposed improvements, or cause such construction to be commenced, within 6 months, or if weather does not then permit, as soon thereafter as the weather does permit after making said final order.

HISTORY: Am. 1945, p. 203, Act 141, Eff. Sep. 6;—CL 1948, 41.278;—Am. 1952, p. 398, Act 241, Eff. Sep. 18.

41.279 Special assessment district; determination, announcement, addition of lands; determination of installments.

Sec. 9. At the time of hearing objections to the proposed improvement, the commissioners shall finally determine the special assessment district to be assessed for benefits on the construction of the proposed improvement, and shall not assess any lands therefor not included in the district. The determination shall be announced at the conclu-

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sion of the hearing. If at any time error is discovered in the district as so determined, before the special assessment roll has been finally approved by the commissioners and if in the judgment of the commissioners further lands should be brought within such assessment district, they may give notice of a new hearing as to the limits of such assessment district, and bring in additional lands as provided in the first instance. The commissioners shall also then and there determine the number of installments, if any, in which the money therefor shall be raised, which shall not be more than 10 annual installments. The determination as to the number of installments in which the money for the improvements shall be raised, may be altered, subject to the limitations in section 13, after notice and hearing thereon given and conducted in the manner hereinbefore provided.

HISTORY: CL 1948, 41.279;—Am. 1960, p. 37, Act 47, Imd. Eff. Apr. 19.

41.280 Assessment of benefits against township and parcels of land; review; assessment against state lands; numbering of districts.

Sec. 10. The commissioners shall apportion the percentage of the total cost of such improvement which the township at large shall be taxed to pay by reason of the benefit to the public convenience and welfare, which shall not exceed 25 per cent of the total cost of said improvement, and may apportion a percentage of the total cost of such improvement, to be borne by the board of county road commissioners from the county road fund, and shall also apportion the percentage of the benefits to accrue to any piece or parcel of land by reason of the construction of such improvement over and above the sum of the per cent assessed against the township at large and the percentage, if any, apportioned to the board of county road commissioners to be paid from the county road fund as aforesaid, which per cent of benefit shall be apportioned upon and assessed against the lands benefited, according to the benefits received, and which apportionment shall be announced at the time and place of hearing objections to and equalizing the apportionment of benefits. Such assessments of per cent benefits shall thereupon be subject to review and correction and may be reviewed in the manner herein provided. All appeals in this act provided for shall be from the apportionment of the per cent of benefits. Any state lands, except state tax homestead or state swamp lands under the control of the conservation department, benefited by any such improvement, shall be liable to assessment in the same manner as are privately owned lands. The amount of any assessment on state land shall be certified by the board of county road commissioners, to the auditor general, who shall thereupon draw his warrant on the state treasurer for the amount due. Payment thereof shall be made out of any funds in the state treasury appropriated therefor. The auditor general shall incorporate in the state tax for the year 1932 and for each year thereafter a sufficient sum as estimated by him to reimburse the general fund for all sums paid by the state on account of such assessment. In any case where such assessment is imposed by the board of county road commissioners the state shall have the same right of appeal as is herein given to owners of other lands. The county road commissioners shall designate each assessment district by number, by which number it shall thereafter be known. Whenever any state land shall be assessed for benefits, the board of county road commissioners shall give 10 days' notice to the auditor general of the time and place of the hearing of objections on account of such assessment.

HISTORY: Am. 1945, p. 203, Act 141, Eff. Sept. 6;—CL 1948, 41.280.

41.281 Creation of indebtedness; approval by township board; limitation on issue of township bonds.

Sec. 11. In the creation of any indebtedness hereunder, it shall not be necessary to have the approval of the board of supervisors thereon, but no indebtedness against the township at large shall be incurred without the approval of the township board of each

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township in which any part of the assessment district is situated. No bonds shall be issued on behalf of any township which would cause the total bonded debt of the township to exceed 5 per cent of its assessed valuation.

HISTORY: CL 1948, 41.281.

41.282 Maintenance and repair of improvement; proration of expense of joint improvement.

Sec. 12. After the completion of said proposed improvement, the highway authorities having jurisdiction over the highway involved, shall maintain and repair said pavement and/or sidewalk and shall keep the same in a reasonably safe condition for public travel, using for this purpose any money which may be available for the maintenance and repair of said highway. If there is a surplus of the money collected after paying the cost of building such proposed improvement, the same shall be turned over to the highway authorities having the responsibility for the maintenance and repair thereof and shall be used solely for such maintenance and repair. If the improvement is in more than 1 highway jurisdiction, the fund shall be prorated between such jurisdictions according to the amount of the improvement in each.

HISTORY: Am. 1945, p. 203, Act 141, Eff. Sept. 6;—CL 1948, 41.282.

41.283 Application of Covert act; interest chargeable.

Sec. 13. Except that the faith and credit of the assessment district and the township alone are pledged for the payment of money borrowed, the construction of such proposed improvement, the assessment for same, the making of any assessment district, all appeals and hearings thereon, the issuing of bonds, the collection of money, the levying of reassessments to cover deficiencies, and all other necessary proceedings shall be conducted in the same manner as is provided in and governed by the provisions of Act No. 59 of the Public Acts of 1915, as amended, being sections 247.418 to 247.481 of the Compiled Laws of 1948, so far as the same may be applicable to this class of improvements. Assessments hereunder shall not carry any interest charge prior to the final due date of the first installment thereof. From and after the final due date of the first installment, interest shall be charged on all unpaid assessments at such rate, not to exceed 6% per annum, as the commissioners determine prior to the hearing on the apportionment of benefits as provided for in section 10 of this act. Records shall be kept and reports made of bonds issued under this act by the same officers and in the same manner as provided by law for bonds under said act.

HISTORY: Am. 1945, p. 203, Act 141, Eff. Sep. 6;—CL 1948, 41.283;—Am. 1949, p. 247, Act 218, Eff. Sep. 23;—Am. 1951, p. 91, Act 73, Imd. Eff. May 28;—Am. 1960, p. 37, Act 47, Imd. Eff. Apr. 19.

41.283a Bonds; issuance and sale; interest rate; assessment district sinking fund, creation, purpose; payment by township.

Sec. 13a. The commissioners may issue and sell bonds bearing not to exceed 6 per cent interest to an amount not exceeding the total assessments levied in any district, and pledge the full faith and credit of the assessment district for the payment of said bonds. When bonds are issued, all payments made on the assessments shall be paid into and constitute a fund, hereinafter referred to as the assessment district sinking fund, for the payment of the principal and interest on said bonds until such fund is sufficient to retire all bonds at maturity.

The township board of any township in which a special assessment district is created under the provisions of this act may, by resolution duly adopted, pledge the full faith and credit of the township for the payment of bonds issued on said special assessment district. Whenever an assessment district sinking fund is insufficient to pay the bonds and interest thereon when due, and the faith and credit of the township have been pledged to the payment of such bonds, the amount necessary to make such payment shall be paid into such assessment district sinking fund by the township forth-

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with. In any case where such payment is made by the township, all special assessments collected in such district after all bonds issued have been retired or sufficient funds have been accumulated in the assessment district sinking fund to retire all such bonds shall belong to and be turned over to the township.

HISTORY: Add. 1951, p. 92, Act 73, Imd. Eff. May 28.

41.284 Advancement of county road funds; reimbursement by township.

Sec. 14. In lieu of borrowing money and issuing bonds or other evidence of indebtedness, the board of county road commissioners may advance the necessary funds for the construction of the proposed improvement from county road funds under its control, and, upon written certification by the board of county road commissioners that the cost of said improvement has been or will be paid from the county road fund, the county treasurer shall credit all assessments collected from the township at large and the assessment district, including any share of delinquent tax sales apportioned thereto, directly to the county road fund. Whenever funds are so advanced from county road funds, the township board of any township within which such improvement is located may, by resolution duly adopted, pledge the full faith and credit of the township to the repayment of all funds so advanced. In such case, if the county road fund has not been fully reimbursed by special assessment collections upon the final due date of the last installment of such special assessment, the township shall, within 90 days thereafter, pay to the board of county road commissioners such sum as is necessary to complete such reimbursement, and any delinquent special assessments thereafter collected shall belong to and be turned over to the township.

HISTORY: Add. 1945, p. 203, Act 141, Eff. Sep. 6;—CL 1948, 41.284;—Am. 1951, p. 92, Act 73, Imd. Eff. May 28.

41.285 County board of supervisors; appropriation of funds for advancement; establishment of revolving fund.

Sec. 15. The board of supervisors of any county may appropriate necessary funds to advance the cost of any proposed improvement constructed under the provisions of this act, or said board of supervisors may set up and establish a revolving fund to finance proposed improvements under the provisions of this act. Whenever the cost of any improvements constructed under the provisions of this act is advanced from funds so appropriated or set up and established by the board of supervisors, the county treasurer shall credit all assessments collected from the township at large and the assessment district, including any share of delinquent tax sales apportioned thereto, directly to the fund from which the cost of said improvement was advanced.

HISTORY: Add. 1945, p. 203, Act 141, Eff. Sept. 6;—CL 1948, 41.285.

41.286 Hearing examiners; powers and duties; determination of board of county road commissioners, petition for reconsideration, filing; notice, hearing.

Sec. 16. Any board of county road commissioners may designate by resolution a hearing examiner or examiners who shall be authorized to make examinations and hold hearings as required by this act. The hearing examiner or examiners, after the necessary examinations and hearings, shall submit findings of fact and proposed determinations to the board who may modify the proposed determinations and confirm the same as submitted or as modified and order them placed on file in its offices. A copy of the determination of the board shall be served by first class mail to each owner of or party in interest in property to be assessed at their addresses as shown upon the last local tax assessment records. The determinations shall become the final determinations of the board 10 days after mailing of the copies of the determination unless a petition for reconsideration is filed as provided in this section.

If the owners of record of more than 50% of the lineal frontage, who were qualified under the provisions of section 1 of this act to sign the petition, desire to have the

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board of county road commissioners reconsider its determination made under this section, they shall submit within 10 days after mailing of copies of the board's determination, a petition for reconsideration of such determination by the board of county road commissioners.

The board of county road commissioners shall set a time and place of hearing upon the petition for reconsideration, and shall give notice thereof by first class mail to each owner of or party in interest in property to be assessed at their addresses as shown upon the last local tax assessment records. At the conclusion of the hearing, the board of county road commissioners may modify or confirm its previous determination, the determination shall thereupon be final.

HISTORY: Add. 1963, p. 90, Act 76, Imd. Eff. May 8.

Act 203, 1957, p. 251; Imd. Eff. Jun. 4.

AN ACT authorizing townships to buy, maintain and operate street maintenance equipment.

The People of the State of Michigan enact:

41.291 Township street cleaning vehicles and snow removal equipment; purchase, approval.

Sec. 1. The township board of any township, by a majority vote of the township board at any regular meeting or any special meeting called for that purpose, may authorize the purchase of a public street cleaning vehicle or vehicles, snow removal equipment and provide for the maintenance and operation thereof, payable from the general fund of the township. The written approval of the board of county road commissioners shall first be obtained.

HISTORY: New 1957, p. 251, Act 203, Imd. Eff. Jun. 4.

41.301-41.305 Repealed. 1951, p. 35, Act 33, Imd. Eff. May 8.

Sections provided fire protection for townships.

41.311-41.316a Repealed. 1951, p. 35, Act 33, Imd. Eff. May 8.

Sections provided fire protection for unprotected areas in townships.

41.321-41.323 Repealed. 1951, p. 35, Act 33, Imd. Eff. May 8.

Sections provide fire protection for adjoining townships.

Act 107, 1941, p. 131; Imd. Eff. May 20.

AN ACT to authorize township boards to contract with cities or villages for the furnishing of water to township water supply districts for fire protection and other purposes; to provide for installation of water mains and financing of same on voluntary payment basis; to authorize township boards to promulgate and adopt plans for financing, installation, maintenance and control of township water mains; to prescribe the powers and duties of township boards in such cases; to provide for exclusive control of such water mains and use thereof by the township board, and to bring within the provisions of this act certain existing township water mains; and to authorize township water supply and sewage disposal systems, and the issuance of revenue bonds or notes therefor, and to authorize purchases thereof. Am. 1951, p. 270, Act 201, Imd. Eff. Jun. 14.

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The People of the State of Michigan enact:

41.331 Township water supply district; creation, power of township board to contract with city or village.

Sec. 1. Upon filing with the township clerk of petitions verified both as to signature and ownership, signed by 60 per centum of the record owners of the land to be made into a township water supply district, the township board in such township shall have the power to contract with any city or village for the furnishing of water for fire protection and domestic purposes to such water supply district under such terms and conditions as may be agreed upon between said township board and the common council or other representative body of the city or village.

HISTORY: CL 1948, 41.331.

41.332 Water mains and fittings; purchase, installation, maintenance.

Sec. 2. For the purpose of distributing the water to be furnished in pursuance of such contract the township board shall have the right to purchase and lay all necessary water mains and fittings, and maintain and control use of the same, either along public highways or upon private property upon which the right to lay such pipe has been obtained.

HISTORY: CL 1948, 41.332.

41.333 Township water supply system; payment from township contingent fund, limitations; separate water supply system, support.

Sec. 3. Not more than 75 per centum of the net cost, exclusive of funds, materials, or labor, or any combination thereof, that may be furnished and supplied by any federal agency, of purchasing and laying said mains and fittings, shall be paid out of the contingent fund of the township. The township board, on resolving to make and install any such improvement, shall determine by resolution the aforesaid net cost and the share of such net cost (not exceeding the aforesaid maximum percentage) the contingent fund of the township shall bear: Provided, however, That no part of the cost of any water supply system acquired or created under the provisions of this act shall be levied or collected as a tax or assessment, whether general or special, upon property located in any village, school district or water supply district in the township or located in an area thereof served by a water system owned or operated by any city and herein called a city water supply district, where such village, school district or water supply district has a water supply system which was acquired in the first instance and is operated by or for such village, school district or water supply district without any expense to the township-at-large; nor shall any water supply system, so separately financed and operated, be taken, as to ownership or control, except by due process of law as provided by the general laws of this state; and, having determined upon the amount of money to be appropriated at any time from the township's contingent fund for purposes herein authorized, the township board may set apart from that amount when appropriated a proportionate part thereof for the benefit of any such separately operated water supply district in the same ratio to the whole amount appropriated as the population of such separate district bears to the total population of the township, as determined by such board. Such proportionate part shall be deemed the rightful part applicable to such separate water supply district and be applied thereto for the betterment of its separate system as and when authorized by such board. The township board shall prepare and keep on file a map defining the boundaries of any water supply district so served by any such separately financed and operated water supply system separate from any township water system.

HISTORY: CL 1948, 41.333;—Am. 1949, p. 9, Act 10, Imd. Eff. Mar. 8;—Am. 1949, p. 123, Act 118, Eff. Sep. 23;—Am. 1951, p. 270, Act 201, Imd. Eff. Jun. 14.

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41.334 Township water supply system; payment of balance by popular subscription.

Sec. 4. The remaining percentage of such net cost shall be raised by voluntary payment in accordance with the terms provided herein, on the part of property owners in such township water supply district, of funds sufficient to aggregate such remaining percentage.

HISTORY: CL 1948, 41.334.

41.335 Township water supply system; plan for financing, maintenance and control; provisions.

Sec. 5. No person or property owner shall have or possess right to tap or make any connection with said mains without having paid for such privilege in accordance with the terms of this act. On compliance with the provisions of section 3 hereof, the township board shall promulgate and adopt, by resolution, a plan for financing, maintenance and control of such improvement which plan shall provide:

(a) The minimum amount, payable in first instance as herein provided, for the privilege of tapping and making of each private connection with such mains;

(b) A specified date by which all such minimum payments shall be made to the township treasurer; such date to be not less than 30 nor more than 60 days after completion of the publication required by section 6 hereof;

(c) The amount payable, to the township treasurer, after such specified date, for the privilege of tapping and making of each private connection with such mains, same to be not more than 50 per centum nor less than 20 per centum greater than the minimum amount so payable in the first instance.

(d) Rules and regulations designed to vest exclusive governing control of such mains and fittings in the township board and to maintain and preserve adequate water pressure throughout such mains, which said rules and regulations shall conform to the contract made under authority of section 1 hereof. Such rules and regulations shall include provision limiting the number of private connections with such mains which may be purchased and made; provision limiting length of all private connections with such mains; provisions declaring the maximum size of pipe which shall be used by all persons and property owners in making and maintaining private connections with such mains; provision for minimum distance, on either or both sides of such mains, between taps for all private connections, and general provisions governing use and control of such mains, assessment of water rates, collection and payment of water rates and suitable penalties for non-payment of such rates.

HISTORY: CL 1948, 41.335;—Am. 1949, p. 9, Act 10, Imd. Eff. Mar. 8.

41.335a Township water board; creation, powers; loans by private parties.

Sec. 5a. The township board may include, in its plan for financing under section 5 hereof, rules and regulations for setting up of a township water board and for loans to such water board from private parties of sums necessary to aid in the financing of the project so petitioned for, which loans shall be retired only out of excess funds as defined in section 9 hereof and other direct revenues, if any, to be derived from the project. Should such water board be set up in accordance with this provision, it shall exercise under direction of the township board all of the powers of maintenance and control which are granted by this act to the township board.

Loans of sums to aid in the financing of any project petitioned for under this act, heretofore made by private parties to a township board or township water board at interest rates below the legal rate, are hereby validated, but the same shall be retired only out of excess funds as defined in section 9 hereof and other direct revenues, if any, to be derived from the project. In no case shall any loan authorized or validated by this section constitute an obligation of the township, and such loans shall be se-

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cured solely by a lien in favor of the lender or lenders upon such excess funds and revenues.

HISTORY: Add. 1949, p. 10, Act 10, Imd. Eff. Mar. 8.

41.336 Township water supply system; plan for financing, publication.

Sec. 6. Immediately following adoption of such plan the same shall, in extenso, be published by the township board once each week for 3 successive weeks in some newspaper printed and circulating within the county in which such improvement is to be made, and proof of such publication shall be made and filed with the township clerk before installation of such improvement is undertaken or commenced. Such publication shall constitute the sole notice of such planned improvement, and of the provisions of such plan and of such rules and regulations, which interested persons and property owners shall be entitled to receive.

HISTORY: CL 1948, 41.336.

41.337 Failure to raise balance in accordance with terms of plan; refund of prior payments.

Sec. 7. In the event such remaining percentage is not, in pursuance of said plan, fully paid in to the township treasurer, either by paid for connection rights as provided in such published plan and/or by loans made in accordance with section 5a hereof, by the specified date which is required by (b) of section 5 hereof, the improvement shall not be made or commenced and all sums theretofore deposited with the township treasurer in pursuance of such plan shall thereupon be refunded by the township treasurer to the respective depositors thereof.

HISTORY: CL 1948, 41.337;—Am. 1949, p. 10, Act 10, Imd. Eff. Mar. 8.

41.338 Installation of improvement by township board; authority to borrow funds.

Sec. 8. In event a sufficient number of private connection rights are timely paid for in accordance with the terms of said plan, the township board shall forthwith proceed to make and install such improvement and may do and perform, by resolution, such acts as may be necessary to accomplish the purposes of such plan. The board may legally borrow the amount, or any portion thereof, to be appropriated from the contingent fund under section 3 hereof if, in the judgment of the board, the contingent fund will, by such appropriation, be depleted to such extent as may hamper general township operations. Any such loan shall conform to the provisions of Act No. 26 of the Public Acts of 1931, as amended.

HISTORY: CL 1948, 41.338.

NOTE: Act 26, 1931, above referred to, has been repealed and superseded by Act 202, 1943, being Compilers' § 131.1 et seq.

41.339 Excess funds; disposition; section retroactive.

Sec. 9. All funds and deposits that are or may be paid in to the township treasurer for private connection rights after the specified date required by (b) of section 5 hereof, and all funds and deposits that are paid in to the township treasurer on or before such date which create an excess over such remaining percentage, shall be treated as excess funds and shall become a part of the contingent fund: Provided, That the township board may, in its discretion, credit and pay over, from time to time, all or a portion of such excess funds to any school district in which such improvement, in whole or in part, has been made. This section shall apply to all funds and deposits hereafter received by the township treasurer in cases where water mains have already, prior to the effective date of this act, been extended or installed in accordance with plan substantially similar to that contemplated by section 5 hereof.

HISTORY: CL 1948, 41.339.

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41.340 Maintenance and use of mains and fittings; control by township board; amendment of rules and regulations, notice required.

Sec. 10. The township board shall have and possess exclusive governing control over the maintenance and use of said mains and fittings and shall exercise such control in accordance with the terms of this act and the rules and regulations that are required by and conform to (d) of section 5 hereof. Such rules and regulations shall and may be amended or altered by the township board only after notice of intention on its part so to do, specifying date, hour and place of meeting of the board for such purpose, is published for 3 successive weeks in some newspaper which is published and circulating within the county in which such improvement has been made.

HISTORY: CL 1948, 41.340.

41.341 Mains previously installed or extended; control by township board; rules and regulations, adoption, publication, amendment.

Sec. 11. In all cases where water mains have been extended or installed in accordance with plan substantially similar to that contemplated by section 5 hereof, the township board shall (subject to provisions of such contract as has been made with any city or village for furnishing of water through such mains) have and possess exclusive governing control over such mains and fittings and the maintenance and use thereof. In all such cases the township board may, at any time following the effective date of this act, promulgate and adopt, by resolution, rules and regulations conforming substantially with (d) of section 5 hereof. Such rules and regulations shall become effective on completion of publication of same, in extenso, once each week for 3 successive weeks in some newspaper printed or circulating within the county in which such improvement has been made. After such rules and regulations have become effective the same shall and may be amended or altered by the township board only after notice of intention so to do, specifying date, hour and place of meeting of the board for such purpose, is published for 3 successive weeks in some newspaper which is published and circulating within such county.

HISTORY: CL 1948, 41.341.

41.342 Township water supply system; definitions.

Sec. 12. The term "township water supply district," as used herein, shall be construed to mean and include such portion of the township as may be described in the petition required by section 1 hereof, and the same shall consist of contiguous and unseparated lands which have been included in 1 or more plats.

The term "private connection," as used herein, shall be construed to mean the tapping of mains and connection thereof with non-public buildings or premises as distinguished from connections with public buildings or premises and extensions of such mains, lateral or otherwise, which the township board may, in accordance with altered or amended rules and regulations, authorize in and along public highways.

HISTORY: CL 1948, 41.342.

41.343 Township water supply and sewage disposal system; loan from corporation; bonds.

Sec. 13. Any corporation proposing to locate and construct, in a township having no sewage disposal system and a water supply system heretofore installed under the terms of sections 1 to 12 of this act which is inadequate for domestic and proposed industrial requirements, a business or plant requiring the facilities of a modern and sufficient public water supply and sewage disposal system, may notwithstanding anything herein contained to the contrary lawfully loan to such township funds sufficient to provide for the acquisition and construction of an adequate township water supply and sewage disposal system and for the refunding of any revenue bonds or revenue notes, if any, then outstanding and constituting a lien upon the revenues of any such existing water

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supply system, and the township may lawfully borrow from such corporation funds for the aforesaid purposes and execute revenue bonds and mortgage securing the same and pledge the net revenues of the proposed water supply and sewage disposal system to the repayment of such loan, and may acquire, construct or improve such works and refund such bonds or notes, without complying with section 1 hereof, any previously enacted statute to the contrary notwithstanding. Any bond issued under the provisions of this section shall be the valid and subsisting obligations of said township.

HISTORY: Add. 1951, p. 270, Act 201, Imd. Eff. Jun. 14.

Original section 13 of Act 107 of 1941, p. 131, was a severing clause section and was repealed by Act 267 of 1945.

41.344 Contract for issuance of revenue bonds; interest, terms and conditions.

Sec. 14. Any township borrowing for the purposes of and by authority of section 13 hereof may lawfully enter into a contract with such corporation for the issuance and delivery to such corporation or its assigns of self-liquidating and fully negotiable revenue bonds for the repayment of such loan with interest thereon not exceeding the legal rate, according to such terms and conditions consistent with this act as may be agreed upon between the township board of such township and the lending corporation.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. Jun. 14.

41.345 Ordinance of township board.

Sec. 15. The power herein conferred on any such township shall be exercised by means of an ordinance adopted by the township board thereof according to the procedure set forth in Act No. 191 of the Public Acts of 1939, and the contract agreed upon with such corporation as provided in section 14 hereof shall be incorporated in and published as a part of such ordinance.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. Jun. 14.

41.346 Statutory lien upon net revenues; trust funds.

Sec. 16. There shall be created in the authorizing ordinance a lien, by this act made a statutory lien, upon the net revenues of such water supply and sewage disposal project, and the authorizing ordinance shall pledge such net revenues to the payment of the principal of and interest upon such bonds, to and in favor of the holders of such bonds and the interest coupons pertaining thereto, and each of such holders, which liens shall be a first lien upon such net revenues. Said net revenues shall constitute trust funds for the purposes expressed herein.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. Jun. 14.

41.347 Duration of lien.

Sec. 17. The net revenues so pledged shall be and remain subject to said statutory lien until the payment in full of the principal of and interest upon said bonds. The holder or holders of said bonds representing in the aggregate not less than 20 per cent of the entire issue then outstanding may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce said statutory lien and enforce and compel the performance of all duties of the officials of the borrower, including the fixing of sufficient rates, the collection of revenues, the proper segregation of revenues and the proper application thereof: Provided, however, That said statutory lien shall not be construed to give any holder or owner of any bond or coupon authority to compel the sale of the water supply and sewage disposal system, the revenues of which are pledged thereto.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. Jun. 14.

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41.348 Payment of principal and interest on bonds; default, appointment of receiver.

Sec. 18. If there be any default in the payment of the principal of or interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate on behalf of the township, under the direction of said court, any such water supply and sewage disposal system and revenues of which are pledged to the payment of such principal and interest; and by and with the approval of said court, to fix and charge rates and collect revenues sufficient to provide for the payment of any bonds or other obligations outstanding against the revenues of said water supply and sewage disposal system and for the payment of expenses of operating and maintaining the same and to apply the income and revenues of said water supply and sewage disposal system in conformity with this act and the ordinance providing for the issuance of such bonds and in accordance with such orders as the court shall make.

HISTORY: Add. 1951, p. 271, Act 201, Imd. Eff. Jun. 14.

41.349 Payment of principal and interest on bonds; use of net revenues; bonds not to constitute indebtedness.

Sec. 19. The principal of and interest upon such bonds shall be payable solely from such net revenues derived from the operation of the water supply and sewage disposal system purchased, acquired, constructed, improved, enlarged, extended and/or repaired from the proceeds of such bonds, as shall be pledged thereto in the authorizing ordinance, which may include, if the ordinance so provides, net revenues derived by reason of future improvements, enlargements, extensions and/or repairs thereto. No bond or coupon issued pursuant to this act shall be a general obligation of the borrower or shall constitute an indebtedness of the borrower within the meaning of any state constitutional provision or statutory limitation. Bonds may be registered as to principal under such terms and conditions as may be determined by the township board.

HISTORY: Add. 1951, p. 272, Act 201, Imd. Eff. Jun. 14.

41.350 Operation and maintenance; appropriations from other revenue.

Sec. 20. The borrower is hereby empowered to appropriate and use any part of its available income or revenues derived from any source other than from the operation of such public improvement in paying any expenses of operation or maintenance of any such public improvement.

HISTORY: Add. 1951, p. 272, Act 201, Imd. Eff. Jun. 14.

41.a351 Powers conferred by act; corporation, definition.

Sec. 21. This act constitutes a new and independent authority for the exercise of the powers herein granted. The powers conferred by this act are not affected or limited by any other statute, except as expressly provided herein. This act creates a full and complete additional and alternate method for the exercise of the powers herein conferred. The term "corporation" as used in this act includes both foreign and domestic corporations lawfully doing business in this state.

HISTORY: Add. 1951, p. 272, Act 201, Imd. Eff. Jun. 14.

Act 47, 1941, p. 42; Imd. Eff. Apr. 16.

AN ACT to authorize the township board of any township to provide water mains and/or water service for domestic uses and/or fire protection throughout certain areas of such township; to authorize the township board of any township to contract with municipalities or with organized water departments or districts through their authorized governing bodies for the construction of, and supplying water through, water

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mains and the extensions thereof throughout certain areas of such township for domestic or fire protection purposes; to provide for making, levying and collecting special assessments to pay the cost thereof; to issue special assessment bonds in anticipation of the collection of such special assessment taxes; and to advance amounts necessary to pay such bonds and to reimburse the township for such advances; to remit certain funds to property owners for taxes paid.

The People of the State of Michigan enact:

41.351 Water service; authority of township board to contract with municipality, levy special assessments, issuance of bonds.

Sec. 1. In any township where there are lands adjacent to municipalities or areas serviced by water departments or districts, the township board shall have the authority to contract with the governing body or other agency operating such water department or district for the purpose of securing extensions or further extensions of water mains throughout portions of the township and to provide water service by the continued operation of such mains by such municipality or the water department or district. The township board may make, levy and collect special assessments to provide the necessary money to carry out the terms of such contract and to issue bonds in anticipation of the collection of such special assessments upon filing the petition and subject to the terms and conditions hereinafter provided.

HISTORY: CL 1948, 41.351.

41.352 Special assessment water district; filing of petition; establishment by township board.

Sec. 2. Upon the filing of petition, setting forth the boundaries and requesting establishment under this act of a special assessment water district in which the improvement specified in section 1 is desired, signed by the record owners of land within the said area proposed to be made into such special assessment district, the township board shall have power to create, define and establish within all or any part of such area a special assessment district throughout which the improvement shall be carried out, and to contract for the purpose of securing the laying of water mains and the providing of water service for domestic uses and/or fire protection: Provided, however, That such petition, verified both as to signature and ownership, shall have been signed by the record owners of not less than 51 per cent by area of the land actually created into such special assessment district by said township board.

HISTORY: CL 1948, 41.352.

41.353 Contract for water service; notice, hearing, approval by township board; special assessments, issuance of bonds, advance.

Sec. 3. Before entering into such contract as heretofore specified, the township board shall determine by resolution the amount of money necessary to carry out the terms of the contract, and shall give notice to the property owners within the said district of the proposal to enter into such contract and of such amount of money as determined by resolution, and shall give such property owners an opportunity to be heard thereon. Notice of such hearing shall be given not less than 7 days prior to the hearing by 1 publication in a newspaper of general circulation in the township, and by posting, not less than 7 days prior to the hearing, in 3 public places within the area proposed to be provided with the improvement under the terms of the proposed contract. A copy of the proposed contract shall be on file with the clerk of the township during the 7 days prior to such hearing and shall be available for inspection at the office of the clerk during business hours, and the notice to be published and posted shall so state. At the hearing as herein provided, or at a meeting subsequent thereto, the township

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board may approve the contract as submitted, or as it may be modified by the board, provided there shall be no increase of amount of money required for the performance of said contract unless resolution, notice and hearing are had as provided in the first instance. After approval of the contract by the township board it shall provide for the making of a special assessment upon each and every parcel of land in the special assessment district by frontage or benefits and for the issuing and sale of special assessment bonds in anticipation of the collection of said special assessment taxes. No such bonds shall be issued prior to the final confirmation of the assessment roll by the township board. All proceedings relating to the making, levying and collection of special assessments for the purchase or construction of improvements herein authorized and issuing bonds in anticipation of the collection thereof, shall conform, as near as may be, to the proceedings for levying special assessments and issuing special assessment bonds by villages, for like improvements, as set forth in Act No. 3 of the Public Acts of 1895, as amended, being sections 1465 to 1760, inclusive, of the Complied Laws of 1929. If any such special assessment fund is insufficient to pay such bonds and interest thereon when due, the township board may advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by re-assessment of the deficiency if necessary.

HISTORY: CL 1948, 41.353.

NOTE: Act 3, 1895, above referred to, is Compilers' § 61.1 et seq.; and in particular Compilers' § 68.1 et seq.

41.354 Special assessments; annual installments, collection, maximum.

Sec. 4. The cost of such improvement shall be collected from special assessment against the property involved, but no annual installment of any such special assessment shall be in excess of $1.25 per front foot. The collection of all such special assessments may be by installments as provided by said Act No. 3 of the Public Acts of 1895, as amended, being sections 61.1 to 75.12, inclusive, of the Compiled Laws of 1948: Provided, That assessments for such improvements as herein specified may be divided into any number of annual installments not exceeding 10.

HISTORY: CL 1948, 41.354;—Am. 1952, p. 110, Act 98, Imd. Eff. Apr. 11.

41.355 Credit for connections by water users; payment, limitation.

Sec. 5. In the event that the contract entered into as herein provided specifies that the party or agency making the extensions of mains or supplying the water for service through such mains shall pay certain specified sums as credit for connections by water users upon such extended mains, the township board shall direct that such payments be made to the treasurer of the township, and the township board shall further direct the treasurer to credit any such payments upon the special assessment, herein provided for, on the property for which such payment was made, or in the event that at that time such special assessment is less than the credit, then that payment of the balance, but to an amount not greater than the original special assessment tax levied upon such property, be made by the treasurer to the then record owner of the property. Any remaining balance shall be used as the township board shall direct.

HISTORY: CL 1948, 41.355.

41.356 Annual assessment for maintenance; determination, levy and collection.

Sec. 6. After the creation of such special assessment district, the township board may thereafter annually determine the amount to be assessed in said district for the maintenance or continuation of the contract entered into as herein provided, whether such annual assessment may be required for fire hydrant rental or payments or otherwise. The township board shall direct the supervisor or assessor to levy the said amount as annually determined. Such assessment may be made either in a special assessment roll or in a column provided therefor in the regular tax roll. The assessment

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shall be spread and become due and be collected at the same time as the other township taxes are assessed, levied and collected and shall be returned in the same manner for non-payment.

HISTORY: CL 1948, 41.356.

Act 88, 1919, p. 156; Imd. Eff. Apr. 19.

AN ACT to authorize township boards to contract with cities or villages for the furnishing of water for fire protection and other purposes; to authorize the issuing of bonds in connection therewith and to provide for the making, levying and collecting of special assessments to partially defray the cost thereof. Am. 1927, p. 394, Act 202, Imd. Eff. May 19.

The People of the State of Michigan enact:

41.391 Water supply for fire protection and other purposes; filing of petition; authority of township board to contract with municipalities.

Sec. 1. Upon the filing of petitions verified both as to signature and ownership, signed by 60 per centum of the record owners of the land to be made into a special assessment district, the township board in any township shall have the power to contract with any city or village for the furnishing of water for fire protection and other purposes to such portion of the township, and under such terms and conditions, as may be agreed upon between said township board and the common council or other representative body of the city or village.

HISTORY: Am. 1927, p. 394, Act 202, Imd. Eff. May 19;—CL 1929, 2449;—CL 1948, 41.391.

41.392 Installation and maintenance of pipes, connections and fittings; authority of township board.

Sec. 2. For the purpose of distributing the water provided for in the foregoing section the township board shall have the right to purchase and lay all necessary pipes, connections and fittings, and maintain the same, either along a public highway or upon private property upon which the right to lay such pipe has been obtained.

HISTORY: CL 1929, 2450;—CL 1948, 41.392.

41.393 Installation and maintenance of pipes; cost, payment.

Sec. 3. Fifty percent of the cost of purchasing, laying and maintaining said pipe shall be paid out of the contingent fund of the township: Provided, That if the amount which the said township is lawfully authorized to raise for township purposes is not sufficient to pay the township's share of purchasing and laying said pipe the electors of said township, at the annual meeting, or at a special meeting called for that purpose, may authorize the raising of the amount deemed necessary for said purposes, and also whether the said amount shall be raised by tax in 1 year or by bonds to be issued for the purpose.

HISTORY: Am. 1927, p. 394, Act 202, Imd. Eff. May 19;—CL 1929, 2451;—CL 1948, 41.393.

41.394 Certification of tax.

Sec. 4. If the said electors, by a majority vote, decide in favor of raising the entire amount by tax, the amount so decided shall be certified by the township clerk to the supervisor, and all other proceedings taken in connection therewith shall be the same as in the case of ordinary township taxes.

HISTORY: CL 1929, 2452;—CL 1948, 41.394.

TAXATION: See Compilers' § 211.1 et seq.

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41.395 Issuance of bonds; annual installments, interest, limitations.

Sec. 5. In the event that the electors decide, by majority vote, in favor of raising the necessary amount through the issuance of bonds, the township board shall determine the number of annual installments in which said bonds shall be divided, the rate of interest which they shall bear, and the other terms and conditions which they shall contain, but the installments shall not exceed 10; the rate of interest shall not exceed 5 ½ per cent per annum, nor shall the total amount voted for such purposes in any year exceed 1 per cent of the assessed valuation of the said township.

HISTORY: CL 1929, 2453;—CL 1948, 41.395.

41.396 Bonds; payment of principal and interest, tax levy.

Sec. 6. It shall be the duty of the township board to provide for the raising by tax upon the taxable property of said township, such sums of money as shall be sufficient to pay the amount of said bonds and the interest thereon as the same shall become due.

HISTORY: CL 1929, 2454;—CL 1948, 41.396.

41.397 Special assessments; determination, levy and collection by township board; issuance of bonds.

Sec. 7. The remaining 50 per cent of the cost shall be raised by the levying and collection of special assessments. The township board shall have the power to determine the cost thereof; to create, define and establish a special assessment district upon which the cost shall be levied; to levy and collect the special assessments; to pay the cost thereof; and to issue bonds in anticipation of the collection of said special assessments.

HISTORY: Add. 1927, p. 395, Act 202, Imd. Eff. May 19;—CL 1929, 2455;—CL 1948, 41.397.

41.398 Special assessments; prerequisites to construction; issuance of bonds; advance of township funds.

Sec. 8. Before purchasing or laying said pipe, the township board shall determine by resolution the cost thereof and shall provide for the making of a special assessment upon each and every parcel of land in the special assessment district by benefits, and for the issuing and sale of special assessment bonds in anticipation of the collection of said special assessment taxes. No such bonds shall be issued prior to the final confirmation of the assessment roll by the township board. All proceedings relating to the making, levying or collection of special assessments herein authorized and the issuing of bonds in anticipation of the collection thereof, shall conform as near as may be, to the proceedings for levying special assessments and issuing special assessment bonds by villages for like purposes, as set forth in Act No. 3 of the Public Acts of 1895, being, as amended, chapter 72 of the Compiled Laws of 1915, as amended. If any such special assessment fund is insufficient to pay such bonds and interest thereon when due, the township board shall advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by re-assessment of the deficiency, if necessary.

HISTORY: Add. 1927, p. 395, Act 202, Imd. Eff. May 19;—CL 1929, 2456;—CL 1948, 41.398.

NOTE: Act 3 of 1895, above referred to, is Compilers' §§ 61.1 to 75.12.

Act 251, 1957, p. 309; Eff. Sep. 27.

AN ACT to provide for the making of certain public improvements by townships and to permit the expenditure of public moneys with respect thereto independently of or in conjunction with proceedings under laws providing for special assessments.

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The People of the State of Michigan enact:

41.401 Sidewalks along and footwalks over highways; installation by township board; approval required.

Sec. 1. The township board of any township may make a public improvement by the installation of sidewalks along the sides of any highway and elevated structures for foot travel over highways in the township, and pay for the elevated structures out of the funds of the township, or may purchase the same on title retaining contracts. Such contracts shall not be entered into or issued for a longer period than 10 years. No highway under the jurisdiction of the state highway commissioner or the board of county road commissioners shall be improved under the provisions of this act without the written approval of the state highway commissioner or the board of county road commissioners.

HISTORY: New 1957, p. 309, Act 251, Eff. Sep. 27;—Am. 1959, p. 66, Act 67, Imd. Eff. Jun. 12;—Am. 1963, p. 26, Act 24, Imd. Eff. Apr. 25.

41.402 Sidewalks; payment from township contingent or general fund.

Sec. 2. In proceedings under the provisions of this act, the township board may provide that the cost of the improvement shall be paid entirely by public moneys and may allocate therefor any unexpended moneys in the contingent fund or general fund of the township.

HISTORY: New 1957, p. 309, Act 251, Eff. Sep. 27.

Act 116, 1923, p. 161; Eff. Aug. 30.

AN ACT to authorize improvements in and for lands in townships or waters, adjacent or contiguous thereto, by constructing bridges over natural or artifical waterways, grading, paving, curbing, stoning, graveling, macadamizing or cinderizing streets, laying storm sewers to care for surface water in such streets, destroying weeds, providing street markers and lighting, contracting for public transportation facilities, providing police protection or contracting therefor, establishing and maintaining garbage systems or plants for the collection and disposal of garbage or contracting therefor, constructing or acquiring and maintaining sanitary sewers and sewage disposal plants, constructing filtration plants, constructing sidewalks, purchasing or constructing waterworks, purchasing or contracting for fire apparatus and equipment, constructing and maintaining housing facilities for fire apparatus and equipment, making extension of water mains to provide water for fire protection and domestic uses, for the trimming and spraying of trees and shrubbery, and constructing breakwaters, retaining walls or sea walls, or any combination of the foregoing for beach and soil erosion control, providing for the suppression of swimmers' itch and other aquatic nuisance-producing organisms; to provide for making, levying and collecting of special assessments to pay the cost thereof, and to issue special assessment bonds in anticipation of the collection of such special assessment taxes to provide the money with which to pay the cost of such improvements, and advance the amount necessary to pay such bonds and reimburse the township for such advances, and if necessary thereto to reassess the district. Am. 1925, p. 381, Act 263, Eff. Aug. 27;—Am. 1927, p. 70, Act 58, Imd. Eff. Apr. 21;—Am. 1929, p. 575, Act 232, Eff. Aug. 28;—Am. 1931, p. 218, Act 140, Imd. Eff. May 21;—Am. 1935, p. 106, Act 68, Imd. Eff. May 18;—Am. 1937, p. 612, Act 318, Imd. Eff. Jul. 27;—Am. 1941, p. 300, Act 201, Eff. Jan. 10, 1942;—Am. 1945, p. 335, Act 239, Eff. Sep. 6;—Am. 1947, p. 210, Act 150, Imd. Eff. Jun. 2;—Am. 1952, p. 44, Act 43, Imd. Eff. Apr. 1;—Am. 1957, p. 286, Act 227, Eff. Sep. 27;—Am. 1961, p. 34, Act 33, Imd. Eff. May 18.

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The People of the State of Michigan enact:

41.411 Township and village public improvements; authority of township board or council to make, levy and collect special assessments and issue bonds.

Sec. 1. In any township lands, the township board or common council or board of trustees of an incorporated village shall have the authority to make improvements and provide public service by constructing bridges over natural or artificial waterways, grading, paving, curbing, stoning, graveling, macadamizing or cinderizing streets, or to treat the streets with chloride or other suitable dust laying process or material, laying storm sewers to care for surface water in such streets, destroying weeds, providing street markers and lighting, contracting for public transportation facilities, providing police protection or contracting therefor, establishing and maintaining garbage and mixed refuse systems or plants for the collection and disposal of garbage and mixed refuse or contracting for such collection and disposal for not to exceed 30 years, constructing or acquiring and maintaining sanitary sewers and sewage disposal plants or equipment, constructing filtration plants, constructing sidewalks, purchasing or constructing waterworks, purchasing fire apparatus and equipment, constructing and maintaining housing facilities for fire apparatus and equipment, making extension of water mains to provide water for fire protection and domestic uses, for the trimming and spraying of trees and shrubbery, to provide and maintain soil and beach erosion control measures including, but not limited to, the construction of breakwaters, retaining walls or sea walls, or any combination of the foregoing, in or for any such lands or waters adjacent or contiguous thereto, to establish and conduct chemical beach treatment service necessary to the control of aquatic nuisances such as swimmers' itch or to contract with others to provide said services; to levy and collect special assessments to pay the cost thereof and to issue bonds in anticipation of the collection of said special assessments, upon filing the petition and subject to the terms and conditions hereinafter provided. In incorporated villages, the common council or board of trustees thereof shall be vested with and shall perform the powers and duties vested in the township board in areas outside incorporated villages.

Condemnation proceedings.

The township board or common council or board of trustees of any incorporated village may purchase, accept by gift or device, or condemn private property. If by condemnation, the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or such other appropriate provisions thereof as exist or shall be made by law, may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings.

Short title.

This act shall be known and may be cited as the "township and village public improvement act".

HISTORY: Am. 1925, p. 381, Act 263, Eff. Aug. 27;—Am. 1927, p. 70, Act 58, Imd. Eff. April 21;—Am. 1929, p. 575, Act 232, Eff. Aug. 28;—CL 1929, 2385;—Am. 1931, p. 218, Act 140, Imd. Eff. May 21;—Am. 1937, p. 612, Act 318, Imd. Eff. July 27;—Am. 1941, p. 300, Act 201, Eff. Jan. 10, 1942;—Am. 1945, p. 335, Act 239, Eff. Sept. 6;—Am. 1947, p. 210, Act 150, Imd. Eff. June 2;—CL 1948, 41.411;—Am. 1952, p. 44, Act 43, Imd. Eff. Apr. 1;—Am. 1957, p. 287, Act 227, Eff. Sep. 27;—Am. 1961, p. 34, Act 33, Imd. Eff. May 18;—Am. 1967, 1st Ex. Ses., p. 729, Act 1, Imd. Eff. Nov. 3.

CITED IN OTHER SECTIONS: Sections 41.411 to 41.414 are cited in § 486.507.

41.412 Special assessment district; procedure for establishment, enlargement, discontinuance; petitions, signers.

Sec. 2. Upon the filing of petitions verified both as to signature and ownership, signed by record owners of land to be made into a special assessment district, in which any of the improvements specified in section 1 are desired by the owners of such land, the township board shall have power to construct and maintain such improvements, to determine the cost thereof, and to create, define and establish a special assessment dis-

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trict within all or within and comprising not less than 80 per centum of such area and upon which district the cost of such improvement shall be levied: Provided, however, That such petition, verified as to signature and ownership, shall have been signed by the record owners of not less than 65 per centum of the land actually created into such special assessment district by said township board, and a district established and assessed may be enlarged through a petition, circulated and signed as required for an original district, but covering only the area to be added to create the enlarged district, and benefits of an improvement extended to the added part and the entire enlarged district assessed for the same, as provided for an original district. The term "improvement" shall include any service authorized hereunder. Where a service has been instituted but no assessment bonds are outstanding therefor, such service may be discontinued upon petition by owners of a like percentage of lands.

HISTORY: Am. 1927, p. 70, Act 58, Imd. Eff. April 21;—CL 1929, 2386;—Am. 1941, p. 300, Act 201, Eff. Jan. 10, 1942;—Am. 1947, p. 211, Act 150, Imd. Eff. June 2;—CL 1948, 41.412.

41.413 Special assessments; levy and collection proceedings; issuance of bonds, advancement of township funds, reimbursement.

Sec. 3. Before commencing any of the above authorized improvements, the township board shall obtain from competent sources, maps, plans and estimates of the proposed improvement, shall determine by resolution the cost of the proposed improvement, and shall provide for the making of a special assessment upon each and every parcel of land in the special assessment district by benefits, and for the issuing and sale of special assessment bonds in anticipation of the collection of said special assessment taxes. No such bonds shall be issued prior to the final confirmation of the assessment roll by the township board. All proceedings relating to the making, levying and collection of special assessments herein authorized and issuing bonds in anticipation of the collection thereof, shall conform, as near as may be, to the proceedings for levying special assessments and issuing special assessment bonds by villages, for like improvements, as set forth in Act No. 3 of the Public Acts of Michigan for 1895, as amended, being sections 61.1 to 75.12, inclusive, of the Compiled Laws of 1948. If any such special assessment fund is insufficient to pay such bonds and interest thereon when due and said bonds shall have been issued subsequent to the twenty-first day of April, 1927, the township board may advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by re-assessment of the deficiency if necessary: Provided, however, That as to any bonds issued subsequent to July 1, 1951, the township board may, at the time of issuance, pledge the full faith and credit of the township for the payment of the same and if any special assessment fund is insufficient to pay such bonds and interest thereon when due, the township board shall advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by re-assessment of the deficiency against such special assessment district, if necessary.

HISTORY: Am. 1927, p. 71, Act 58, Imd. Eff. April 21;—CL 1929, 2387;—Am. 1934, 1st Ex. Ses., p. 100, Act 24, Imd. Eff. March 28;—CL 1948, 41.413;—Am. 1951, p. 33, Act 32, Imd. Eff. May 3.

41.413a Waterworks; control and operation by board of public service commissioners, exception; board, membership, vacancies, residency requirements, election, terms, employees.

Sec. 3a. Any waterworks established under the provisions of this act, and any other service provided hereunder for a district having a waterworks, shall be under the control of and operated by a board of public service commissioners: Provided, That in incorporated villages such improvements or service shall be under the control of and operated by the common council or board of trustees of any said incorporated village. Said district board shall consist of 5 commissioners to be elected at the annual township election by the qualified electors residing in the district. Any vacancy on said

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board shall be filled by the remaining members of the board until the next annual township election, at which election the vacancy shall be filled for the unexpired term. The members of said board shall be residents of the district. The township clerk shall call a special township election, upon the filing with said clerk of a petition signed by 25 residents of the district, for the election of the members of said board to hold office until the next annual township election: Provided, That the members of the board and the electors qualified to vote therefor shall have the qualifications hereinbefore set forth: Provided, further, That at the first election held under this act, 2 commissioners shall be elected for a term of 3 years, 2 commissioners shall be elected for a term of 2 years and 1 commissioner shall be elected for a term of 1 year; thereafter commissioners shall be elected for a term of 3 years. The commission shall have authority to hire necessary employees to carry out the purpose of this act. The provisions of this section shall not apply to waterworks facilities constituting a part only of a general township water system.

HISTORY: Add. 1935, p. 106, Act 68, Imd. Eff. May 18;—Am. 1937, p. 613, Act 318, Imd. Eff. July 27;—Am. 1941, p. 301, Act 201, Eff. Jan. 10, 1942;—CL 1948, 41.413a.

41.414 Special assessments; annual installments, collection, limitations; appeal; village or district waterworks, restrictions.

Sec. 4. No special assessment installments shall be levied upon any property in excess of 15 per cent of its assessed valuation for the cost of any such improvements in any 1 year and the total assessment installments for any year for any combination of such improvements, regardless of the year in which such assessment installments are levied shall not be in excess of 45 per cent of its assessed valuation. The collection of all such special assessments shall be by installments as provided by Act No. 3 of the Public Acts of Michigan of 1895, as hereinabove specified: Provided, That assessments for paving or for street markers and lamp-posts and any combinations including paving may be divided into any number of annual installments not exceeding 10: And provided further, That assessments for the construction or extension of sanitary sewers, or water mains to provide water for fire protection and domestic uses, and any combinations including the construction or extension of sanitary sewers, or water mains to provide water for fire protection and domestic uses, or for the construction of filtration plants, may be divided into any number of annual installments not exceeding 20: And provided further, That assessments for the purchase or construction of waterworks or sewage disposal plants may be divided into any number of annual installments not exceeding 40. An appeal may be taken from the assessment of the supervisor to the board of commissioners provided for under section 3a of this act, said board to act as a board of review, and to have the same powers, duties and be governed by the same procedures and the same legal consequences as the board of review provided for in the general tax laws of this state: Provided further, That where a village or district is served by a waterworks, water reservoir, or aqueduct to a source of water supply established without expense to the township at large, such works shall not be tapped for the purpose of supplying water outside of such village or district if such tapping shall seriously deplete or imperil the water supply or pressure of such village or district, and in no case tapped without the consent of the board of commissioners aforesaid; and where a village or district is served by any public service described in this act, which has been established in the first instance and is being operated without any expense to the township, no part of any tax or assessment shall be levied by the township upon such village or district for the purpose of establishing or operating a similar improvement or facility for other parts of the township.

HISTORY: Am. 1927, p. 71, Act 58, Imd. Eff. April 21;—Am. 1929, p. 575, Act 232, Eff. Aug. 28;—CL 1929, 2388;—Am. 1931, p. 356, Act 204, Eff. Sept. 18;—Am. 1937, p. 614, Act 318, Imd. Eff. July 27;—Am. 1941, p. 301, Act 201, Eff. Jan. 10, 1942;—Am. 1947, p. 148, Act 110, Eff. Oct. 11;—CL 1948, 41.414.

NOTE: Act 3 of 1895, above referred to, is Compilers' §§ 61.1 to 75.12.

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41.415 Special assessments on corner lots; payment by township.

Sec. 5. The governing body of any township, by resolution, may agree to pay up to 1/3 of the cost of the special assessments levied against any platted corner lot for the payment of public improvements authorized under the provisions of this act.

HISTORY: Add. 1959, p. 254, Act 178, Eff. Mar. 19, 1960.

Act 157, 1905, p. 220; Eff. Sep. 16.

AN ACT to authorize a township or townships to acquire by gift or devise real estate and to own and control the same for a public park, resort, bathing beach or other place of recreation; to provide for a board of commissioners therefor and to authorize said township or townships, by a limited tax on the property in such township or townships, to maintain such park or resort and to make rules and regulations for the control and government of the same. Am. 1941, p. 535, Act 308, Eff. Jan. 10, 1942;—Am. 1964, p. 37, Act 32, Imd. Eff. May 4.

The People of the State of Michigan enact:

41.421 Township parks; acquisition; control by board of commissioners; condemnation of land.

Sec. 1. Any township or townships, being a contiguous or adjacent territory, may acquire by gift or devise a tract of real estate which shall be contiguous or adjacent to the territory acquiring the same for a free public park, resort, bathing beach or other place of recreation, and may hold such real estate in fee simple for such purposes. The supervisor of each of such townships shall comprise a board of commissioners for the control of such park or resort and in case any such supervisor shall decline to act as such commissioner, then the township board shall designate a member of the township board to act as such commissioner. In case there is only 1 township interested in such park, then the township board shall be the board of commissioners. Such commissioners shall act in that capacity during the term of office to which they were elected respectively in their townships and until their successors are elected and qualified.

Such commission shall have authority in the name or names of the interested township or townships to condemn land for such purpose in accordance with the condemnation laws of this state.

HISTORY: CL 1915, 2192;—CL 1929, 2400;—Am. 1941, p. 535, Act 308, Eff. Jan. 10, 1942;—CL 1948, 41.421;—Am. 1964, p. 37, Act 32, Imd. Eff. May 4.

41.422 Township parks; rules and regulations of board of commissioners; sale of liquor; admission charges.

Sec. 2. The board of commissioners shall have the power to adopt rules and regulations for the use and maintenance of such place of recreation, including the hours which the same shall be open to the public, and may make leases for the purposes of erecting cottages and other necessary buildings under such rules and regulations as it deems expedient. Under any such lease no spirituous or malt liquors shall be sold on the premises. Any person who violates the rules and regulations is guilty of a misdemeanor. A charge for admission may be made by the board, but the charge shall not exceed the charge for admission to state parks of this state. Funds received from such admissions shall be used for the improvement of the places of recreation.

HISTORY: CL 1915, 2193;—CL 1929, 2401;—Am. 1941, p. 535, Act 308, Eff. Jan. 10, 1942;—CL 1948, 41.422;—Am. 1964, p. 37, Act 32, Imd. Eff. May 4.

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41.423 Board of commissioners; election of officers; employees; record of transactions; treasurer, bond.

Sec. 3. The said board of commissioners shall annually elect 1 of its members as president. It shall elect a secretary and treasurer, and may appoint such other officers or employes as it may deem necessary. The secretary shall keep a correct record of all the transactions of the board of commissioners, which shall be a public record, and may be inspected at all times by any taxpayer residing in any township owning an interest in any such park or resort as a grantee. The treasurer shall give a bond in the penal sum of 6,000 dollars.

HISTORY: CL 1915, 2194;—CL 1929, 2402;—CL 1948, 41.423.

41.424 Township parks; plan for acquisition, specifications; referendum, adoption, record.

Sec. 4. Any plan for the securing such park or resort shall fully set forth the premises which it is intended to occupy as a park or resort, and specify the sum which each of said townships will raise by tax each year for the maintenance and support thereof, which shall not be less than 1/10 of a mill nor more than 5 mills on the respective valuations of each of said townships. Said moneys so received shall be paid to the treasurer of said board of commissioners, and shall be paid out on orders drawn on him, signed by the chairman and secretary of said board of commissioners. The full proposition shall be submitted to the qualified electors of each township at a regular or special election, and if adopted by a majority vote shall be a binding contract on such township, and if adopted, shall be recorded in the office of the register of deeds in the county or counties in which said lands shall be situated. The manner of conducting, noticing, canvassing, returning and declaring the result of such election shall, as near as may be, be the same as is now prescribed by the general election law governing elections in said townships for the election of township officers.

HISTORY: CL 1915, 2195;—CL 1929, 2403;—CL 1948, 41.424.

41.425 Exemption from taxation.

Sec. 5. So much of the estate, both real and personal, as is owned by such township or townships shall be exempt from taxes, but all improvements under lease for private use shall be liable to be taxed.

HISTORY: CL 1915, 2196;—CL 1929, 2404;—CL 1948, 41.425.

Act 300, 1939, p. 696; Eff. Sep. 29.

AN ACT to authorize township boards to transfer to county park trustees the title to, or to arrange with county park trustees to improve, maintain, manage and control any lands held for park purposes by any township, including all public places vested in any township by virtue of the dedication of any plat duly approved and recorded according to law.

The People of the State of Michigan enact:

41.431 Township parks; conveyance of title to board of county park trustees; arrangement for maintenance.

Sec. 1. That the township board of any township is hereby authorized to transfer and convey to the board of county park trustees of any county in which said township is located the title to any lands held by such township for park purposes, including any lands acquired by such township through the dedication of any plat duly approved and recorded, or to arrange with said board of county park trustees for the improvement, maintenance, management and control of any such lands, and upon the accept-

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ance by the county park trustees of any such transfer and conveyance, or upon the making of any such arrangement for the care, management and control, the said county park trustees shall be charged with all the duties relating thereto as are provided by Act No. 90 of the Public Acts of 1913, as amended, relating to parks and other public places.

HISTORY: CL 1948, 41.431.

NOTE: Act 90, 1913, above referred to, is Compilers' §§ 123.61-123.67.

Act 271, 1931, p. 454; Imd. Eff. Jun. 6.

AN ACT to provide for the acquisition, maintenance, management and control of township parks and places of recreation; to prescribe the powers and duties of the township board in respect thereto; to provide for the creation of a township park commission, and the election, compensation, powers and duties of the members thereof; and to provide for the issuance of bonds and/or the levy of taxes therefor.

The People of the State of Michigan enact:

41.441 Township park commission; referendum on establishment; members, appointment, terms, election.

Sec. 1. On receipt of a written petition signed by 50 freeholders and taxpayers of any township of this state, the township board of such township, at its first meeting after the receipt of such petition shall submit the question of establishing a township park commission to the registered and qualified electors of the township at the next regular election to be held in the township. If a majority of the electors voting on the question vote in favor of establishing a park commission, the township board shall appoint a township park commission of 6 members, such members to serve until the next biennial township election. At such biennial township election 2 members of such commission shall be elected for a term of 2 years, 2 members for a term of 4 years and 2 members for a term of 6 years, and at each succeeding biennial township election 2 members of such commission shall be elected for a term of 6 years.

HISTORY: CL 1948, 41.441;—Am. 1949, p. 27, Act 33, Eff. Sep. 23;—Am. 1962, p. 29, Act 33, Eff. Mar. 28, 1963.

41.442 Township park commission; authority to acquire, manage and condemn lands; acceptance of gifts and bequests.

Sec. 2. The township park commission shall have authority to acquire, maintain, manage and control township parks and places of recreation, including bathing beaches, and shall have authority, in the name of the township, to condemn land for such purposes, in accordance with the condemnation laws of this state. The township board may authorize the commission to act as the township recreation board provided by Act No. 156 of the Public Acts of 1917, being sections 123.51 to 123.54 of the Compiled Laws of 1948.

Such commission shall be authorized to accept, in the name of the township, gifts, grants and devises of land suitable for parks and places of recreation, and gifts and bequests of money, such money to be held in trust and used for the acquisition and improvement of land suitable for park and recreation purposes.

HISTORY: CL 1948, 41.442;—Am. 1966, p. 161, Act 136, Imd. Eff. Jun. 24.

41.443 Township park commission; members, compensation and expenses; clerical assistants.

Sec. 3. The members of the township park commission shall receive compensation as fixed by the township board and 10 cents per mile traveling expenses to and from commission meetings. The commission may employ such clerical assistance and incur such other expenses as shall be necessary to carry out the provisions of this act. The

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compensation and expenses shall be paid from the park maintenance fund hereinafter provided for, or from the township general fund.

HISTORY: CL 1948, 41.443;—Am. 1966, p. 161, Act 136, Imd. Eff. Jun. 24.

41.444 Township park commission; budget, submission to township board; approval; park maintenance fund, expenditures.

Sec. 4. The township park commission shall submit to the township board at its annual meeting a detailed budget covering the cost of maintenance of the township parks and places of recreation of such township for the ensuing year, such budget not to exceed 1 and 1/2 mill on the assessed valuation of such township. The township board shall examine such budget and shall approve the entire budget, or such part thereof as such board shall deem reasonable and necessary, which sum shall be incorporated into the tax on such township, and when collected shall be deposited by the township treasurer in a fund to be known as the park maintenance fund. Expenditures from this fund shall be on vouchers signed by the members of the township park commission, and it shall be the duty of the township treasurer to allow and pay such vouchers on presentation to him.

The provisions of the general property tax law shall govern the assessment, levy and collection of such tax.

HISTORY: CL 1948, 41.444.

NOTE: General property tax act, see Compilers' § 211.1 et seq.

41.445 Issuance of bonds for township parks; referendum, procedure; maximum.

Sec. 5. The township park commission shall be authorized to submit to the voters of the township at the annual township meeting the question of the issuance of township bonds, the proceeds of which shall be used in the acquisition of lands for township parks and places of recreation. A 3/5 majority vote of the qualified voters voting thereon shall authorize the issuance of such township bonds. The issuance of such township bonds shall be governed by the provisions of Act No. 202 of the Public Acts of 1943, as amended: Provided, That where the township, at the time of such annual meeting, has no outstanding indebtedness, bonded or otherwise, and where the amount of the total proposed acquisition cost is less than 1 per cent of the assessed valuation of the township, the voters of the township may, at such annual meeting, authorize and direct the township park commission to purchase or condemn, as the case may be, designated lands for township parks and places of recreation and may, in such case, direct the township board to pay annually to the township park commission such available portions of contingent funds of the township as may be necessary to pay for such acquisition of lands: Provided further, That the voters of the township shall, in such case and at such annual meeting, determine the maximum amount to be paid for such lands and shall also prescribe, where acquisition is made by purchase instead of condemnation, the terms of payment thereof.

HISTORY: Am. 1945, p. 338, Act 242, Imd. Eff. May 24;—CL 1948, 41.445.

NOTE: Act 202, 1943, above referred to, is Compilers' § 131.1 et seq.

41.445a Sale and conveyance of property not needed.

Sec. 5a. Whenever the whole of a lot or parcel of land is, or has been, acquired under this act by a township park commission, such commission is hereby authorized, subject to approval of the township board, to sell and convey the portion or portions not needed, on whatever terms the park commission may deem proper.

HISTORY: Add. 1945, p. 339, Act 242, Imd. Eff. May 24;—CL 1948, 41.445a.

41.446 Township park commission; annual report.

Sec. 6. The township park commission shall make a detailed annual report concerning township parks and places of recreation to the township board and board of state

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auditors, such report to be filed at the time of the annual meeting of the township board and to be in such form and shall contain such information as the board of state auditors shall direct.

HISTORY: CL 1948, 41.446.

Sec. 7. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 307, 1941, p. 534; Eff. Jan. 10, 1942.

AN ACT authorizing cities and other municipalities to appropriate money for the acquisition, support, maintenance and improvement of sites acquired by townships for use as township parks and places of recreation, including bathing beaches.

The People of the State of Michigan enact:

41.461 Township parks; appropriation by city or village.

Sec. 1. The legislative body of each city and village is hereby authorized and empowered to appropriate out of the general or contingent funds of such city or village, such sum or sums of money as may by such legislative body be deemed advisable, for the purpose of contributing toward the cost of the acquisition, support, maintenance, upkeep, and improvement of land acquired by any township, or 2 or more townships, for use as a free public park, resort, bathing beach, or other place of recreation. Such contribution shall be made to the park commission created by the act under which park site was or shall be acquired.

HISTORY: CL 1948, 41.461.

Act 286, 1923, p. 456; Eff. Aug. 30.

AN ACT to enable townships to construct and maintain wharfs, piers, docks and landing places for the use and benefit of the public.

The People of the State of Michigan enact:

41.481 Public wharfs, piers and docks; acquisition, construction and maintenance by township; referendum.

Sec. 1. Any township in this state abutting upon any navigable waters may acquire, construct and maintain wharfs, piers, docks and landing places for the use and benefit of the public, and may lease and control the same, and the township board shall act for said township in acquiring, constructing and maintaining the same when authorized so to do by the affirmative vote of 3/5 of the qualified electors of said township voting thereon at any general election or at any special election, at which the same shall be submitted.

HISTORY: CL 1929, 2382;—CL 1948, 41.481.

41.482 Public docks; powers of township board as to acquisition, construction and maintenance; proceedings.

Sec. 2. Any and all proceedings had or taken under this act shall be had and taken by said township board who are hereby vested with all the power and authority usually exercised by the highway commissioner of said township in acquiring land for laying out, constructing and maintaining highways, and said township board shall have the right to acquire land for said wharfs, piers, docks and landing places and to lay out, construct and maintain the same in accordance with the same proceedings so far as applicable, as are required to be taken by the highway commissioner of the township

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for acquiring land and constructing and maintaining highways, and the general highway law is hereby extended to include said wharfs, piers, docks and landing places, and made applicable thereto, subject to the provisions herein contained.

HISTORY: CL 1929, 2383;—CL 1948, 41.482.

Act 123, 1917, p. 199; Eff. Aug. 10.

AN ACT to authorize townships to appropriate money for the establishment of township scales, for the weighing of farm produce and other purposes; and to provide for the maintenance, management and control of such scales when established.

The People of the State of Michigan enact:

41.491 Township scales; appropriation by township board; tax levy; maintenance and control.

Sec. 1. It shall be lawful for the township board of any township or village council of any village in this state to appropriate money for the purpose of establishing township or village scales for the weighing of farm produce and for other purposes. All sums hereby authorized to be appropriated shall be assessed, levied and collected in the same manner as other expenses of such townships or villages are assessed, levied and collected. The maintenance, management and control of such scales shall be under the direction of the township board or village council, as the case may be and the expense connected therewith shall be paid in the same manner as other expenses of such townships or villages are paid.

HISTORY: CL 1929, 2384;—CL 1948, 41.491.

TAXATION: See Compilers' § 211.1 et seq.

Act 53, 1921, p. 80; Eff. Aug. 18.

AN ACT to regulate the establishment, maintenance and conducting of public billiard and pool rooms, dance-halls, bowling alleys and soft-drink emporiums outside of incorporated cities and villages; to provide for the issuance of permits for such places; to prescribe the powers and duties of township boards with relation thereto; and to prescribe the penalty for violation of the provisions hereof.

The People of the State of Michigan enact:

41.501 Recreation hall operating permit; qualifications of grantee.

Sec. 1. No public billiard or pool room, public dance-hall, bowling alley, or soft-drink emporium shall be established, maintained or conducted in any place within this state outside of an incorporated village or city, by any person or corporation without first obtaining a permit to operate such place from the township board of the township wherein such place is established or proposed to be operated or established. No person shall be granted a permit under the provisions of this act who is under 21 years of age and who has not resided within this state for a period of at least 1 year immediately prior to the application for such permit; nor shall any such permit be granted to any person who has been convicted of any crime involving moral turpitude, nor to any person whose general reputation in any community in which he has resided during the 5 years next preceding such application is that of a gambler, boot-legger, cheat or promoter of vice and immorality.

HISTORY: CL 1929, 8903;—CL 1948, 41.501.

SIMILAR LAW: See Act 97 of 1919, being Compilers' § 41.531 et seq.

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CITIES: For power of fourth class cities to regulate the use of billiard tables, see Compilers' § 91.1 subd. 5.
VILLAGES: Power of village council to regulate, license or suppress billiard halls, see Compilers' § 67.1 subd. 5.
SUMMER RESORT ASSOCIATIONS: Regulation of billiard rooms and bowling alleys, see Compilers' §§ 455.58 and 455.212.

41.502 Recreation hall operating permit; application, contents, fee; application by corporation.

Sec. 2. Any person desiring to open or establish any of the places mentioned in section 1 hereof, shall first make application therefor to the clerk of the township wherein such place is to be located, setting forth in such application his age, and correct name, post-office address and residence, the length of time he has resided within this state, and where, and his places of residence for the past 5 years immediately before the time of such application; whether or not he has ever been convicted of any crime involving moral turpitude; and giving references in such application to at least 5 reputable citizens of the community wherein he has last resided within this state, and the written recommendations of at least 2 such reputable citizens of such community respecting his moral character. Every such application shall be accompanied by a fee of 5 dollars payable to the township treasurer for the use of the township upon issuing of license to the applicant; and the applicant shall specify in such application the class of business and the exact location of the place thereof for which he requests a permit. In case the applicant for such permit is a corporation authorized to do business in this state, the application shall be made by the agent of such corporation who will have principal charge of the place proposed to be established, and such application shall contain all of the statements and furnish all the facts and recommendations in respect of such agent as are required in the case of a private individual herein. Such permit to a corporation shall be revocable upon the occurrence of a change in the agent so managing such place, and a new permit may be required by such township board before any new agent shall take charge of such place for such corporation. In case of a partnership, each active partner in such business shall join in the application for such permit, and shall furnish all of the information and recommendations required of an individual applicant.

HISTORY: CL 1929, 8904;—CL 1948, 41.502.

41.503 Recreation hall operating permit; granting by township board, form.

Sec. 3. The township board receiving such application, if presented in due form, shall pass upon the same at its next regular meeting or at any special meeting called for such purpose, or at any adjournment thereof, and if satisfied that such applicant possesses the qualifications herein prescribed, shall grant such permit for the term of 1 year. All such permits shall be in such form as the township board may prescribe, but shall contain the name, address, place of business and the class of such business so permitted to the holder, and the date of expiration of such permit, and shall be authenticated by the signature of the township clerk.

HISTORY: CL 1929, 8905;—CL 1948, 41.503.

41.504 Recreation hall operating permit; renewal, nonassignability.

Sec. 4. Any permit issued in accordance with this act may be renewed for an additional year upon the same terms and subject to the same requirements as provided herein for an original permit. Whenever the holder of such permit desires to effect a change of place of doing business he shall notify the township board and make application for a permit for such new place in the same manner as in the first instance, excepting that proof of good character may be dispensed with by such township board.

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No permit issued pursuant to this act shall be assignable or transferable, nor shall any person excepting the person to which it was issued be permitted to do business thereunder either directly or indirectly.

HISTORY: CL 1929, 8906;—CL 1948, 41.504.

41.504a Recreation hall operating permit; causes for revocation; proceedings; notice, hearing.

Sec. 4a. Every such license shall be revoked for any of the following causes:

(1) That intoxicating liquors are either sold or drunk on the premises, or that persons under the influence of intoxicating liquors are permitted to frequent, be in, or remain on said premises;

(2) That gambling in any form is permitted in or about said premises;

(3) That such places are frequented habitually by persons of low repute, or that the place is conducted in such a manner as to be generally reputed in the immediate vicinity thereof to be immoral and a menace to the morals and good citizenship of the community.

In either of the foregoing cases the township board shall revoke said license and give notice of such revocation to the holder. For the purpose of enforcing these provisions for revocation the township board may act on its own initiative, or on complaint of any resident. When such revocation is sought, the township clerk shall give a written notice to the licensee personally, or by leaving the same with his agent or employe at his place of business, in which notice shall be stated the charges made against him for which revocation of his license is sought; the time and place at which he may appear to defend against such charges, which time shall be not sooner than 3 full days from the serving of said notice. For such hearing the township board may subpoena witnesses in the same manner as such witnesses are now subpoenaed in criminal cases in justice court. Such hearings need not follow the strict legal requirement of court trials. If, after an impartial and unbiased investigation, the township board is convinced that the charges have been sustained, it shall revoke the license. If a township board desires the services of the prosecuting attorney at such hearing, it is herein made the duty of the prosecuting attorney to attend and assist in the conduct of such hearing. If the township board shall determine that such license shall be revoked, the township clerk shall personally notify the licensee, or his agent or employe in charge of his place, in writing, and the said license shall be revoked from and after midnight of the said day.

HISTORY: CL 1929, 8907;—CL 1948, 41.504a.

41.505 Construction of act.

Sec. 5. Nothing in this act contained shall be construed as lessening or abrogating the general powers of townships in respect of the regulation and control of places of amusement therein, nor in respect of their general licensing powers as defined by law; nor their general powers of providing by ordinance for the protection of the health and safety of the people thereof.

HISTORY: CL 1929, 8908;—CL 1948, 41.505.

41.506 Violation of act; penalty.

Sec. 6. Any person violating any of the provisions hereof shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding 100 dollars for each offense, or to imprisonment in the county jail not more than 90 days, or to both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1927, p. 463, Act 233, Imd. Eff. May 20;—CL 1929, 8909;—CL 1948, 41.506.

41.507 Applicability of act; lodges and churches.

Sec. 7. Nothing in this act contained as to the making of application for a permit and the payment of a license fee shall be construed to apply to any fraternal lodge,

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church organization incorporated under the laws of this state or chartered by a superior governing body incorporated under the laws of this state, organized exclusively for fraternal, religious or charitable purposes, and conducting its affairs in a room or auditorium occupied by and under the control of such lodge or church organization: Provided, however, That the exemption herein contained shall not extend so as to exempt such lodge or church organization from prosecution for violation of any of the other provisions of this act whether licensed under the act or not.

HISTORY: Add. 1925, p. 526, Act 347, Eff. Aug. 27;—CL 1929, 8910;—Am. 1931, p. 449, Act 266, Eff. Sept. 18;—CL 1948, 41.507.

Act 97, 1919, p. 164; Eff. Aug. 14.

AN ACT to provide for the issuing of permits by the township board for the conducting of public billiard and pool rooms, dance halls, bowling alleys and soft drink emporiums outside of incorporated cities and villages.

The People of the State of Michigan enact:

41.531 Recreation halls; annual permit required.

Sec. 1. No public billiard or pool room, public dance hall, bowling alley or soft drink emporium shall be operated in any place in this state outside of an incorporated city or village, without first obtaining an annual permit therefor from the township board of the township wherein such billiard or pool room, dance hall, bowling alley or soft drink emporium is situated.

HISTORY: CL 1929, 8911;—CL 1948, 41.531.

SIMILAR LAW: See Act 53 of 1921, being Compilers' § 41.501 et seq.

41.532 Recreation hall operating permit; revocation, authority of township board.

Sec. 2. The township board shall have the right to revoke any license once granted, or any annual renewal thereof, when it appears to their satisfaction that any billiard or pool room, dance hall, bowling alley, or soft drink emporium is being conducted in such manner as to be inimicable to public morals.

HISTORY: CL 1929, 8912;—CL 1948, 41.532.

41.533 Recreation halls in townships; definitions.

Sec. 3. For the purposes of this act, billiard and pool rooms, dance halls, bowling alleys and soft drink emporiums shall be defined as those establishments whose principal business is the sale of the commodities indicated or use of the facilities furnished for the aforesaid purposes.

HISTORY: CL 1929, 8913;—CL 1948, 41.533.

41.534 Violation of act; penalty.

Sec. 4. Any person or persons operating or attempting to operate any such billiard or pool room, public dance hall or bowling alley without the permit herein provided for shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not to exceed 100 dollars or by imprisonment in the county jail for not to exceed 3 months or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 8914;—CL 1948, 41.534.

41.535 Recreation halls in townships; exceptions.

Sec. 5. The provisions of this act shall not apply to any fraternal, religious, or other organization which maintains billiard or pool tables, a dance hall, bowling alley or soft drink emporium for the use of its members as merely incidental to its principal activities.

HISTORY: CL 1929, 8915;—CL 1948, 41.535.

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Sec. 6. (This was a repeal section.)
HISTORY: CL 1929, 8916;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 162, 1915, p. 274; Eff. Aug. 24.

AN ACT to provide for the issuing of permits by the township board for the conducting of billiard and pool rooms and bowling alleys outside of incorporated cities and villages.

The People of the State of Michigan enact:

41.541 Billiard rooms and bowling alleys; annual permit required.

Sec. 1. No public billiard or pool room or bowling alley shall be operated in any place in this state outside of an incorporated city or village, without first obtaining an annual permit therefor from the township board of the township wherein such billiard or pool room or bowling alley is situated.
HISTORY: CL 1915, 7812;—CL 1929, 8917;—CL 1948, 41.541.

41.542 Violation of act; penalty.

Sec. 2. Any person or persons operating or attempting to operate any such billiard or pool room or bowling alley without first obtaining the annual permit herein provided for shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not to exceed 10 dollars or by imprisonment in the county jail for not to exceed 15 days or by both such fine and imprisonment in the discretion of the court.
HISTORY: CL 1915, 7813;—CL 1929, 8918;—CL 1948, 41.542.

41.543 Recreation halls in townships; exceptions.

Sec. 3. The provisions of this act shall not apply to any fraternal, religious, or other organization which maintains billiard or pool tables for the use of its members as merely incidental to its principal activities.
HISTORY: CL 1915, 7814;—CL 1929, 8919;—CL 1948, 41.543.

41.551, 41.552 Repealed. 1963, p. 191, Act 140, Imd. Eff. May 10.
Sections regulated hours of poolrooms outside of incorporated cities and villages.

Act 140, 1963, p. 191; Imd. Eff. May 10.

AN ACT to authorize township boards to fix by ordinance the hours of operation of billiard and pool rooms; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

41.561 Billiard and pool rooms; hours of operation.

Sec. 1. A township board may fix by ordinance the hours of operation of billiard and pool rooms within its township.
HISTORY: New 1963, p. 191, Act 140, Imd. Eff. May 10.

41.562 Repeal.

Sec. 2. Act No. 210 of the Public Acts of 1911, as amended, being sections 41.551 and 41.552 of the Compiled Laws of 1948, is repealed.
HISTORY: New 1963, p. 191, Act 140, Imd. Eff. May 10.

Act 130, 1915, p. 216; Eff. Aug. 24.

AN ACT relative to the cost of bonds to be provided by township officers.

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The People of the State of Michigan enact:

41.601 Surety bonds of township officers; payment from township contingent fund.

Sec. 1. Whenever a bond is required by the laws of this state to be given by any township officer, the township board may authorize such officer to procure the required bond from any surety company authorized by the laws of this state to execute the same; the cost thereof, not to exceed 1 per cent per annum of the amount of said bond, may, by resolution of the township board, be paid by the township out of the contingent fund of said township.

HISTORY: CL 1915, 2191;—CL 1929, 1042;—CL 1948, 41.601.

Act 51, 1867, p. 70; Imd. Eff. Mar. 13.

AN ACT to provide for additional sureties from township treasurers in certain cases.

The People of the State of Michigan enact:

41.611 Sureties of township treasurer; insufficiency, additional sureties.

Sec. 1. That whenever the sureties in the bond given by any township treasurer to the county treasurer, as required by law, shall become insolvent, or shall remove out of the county, or shall, in the opinion of the county treasurer, become in any manner insufficient, the county treasurer shall give notice thereof to the supervisor of the township, and that such township treasurer is required to give a new bond to the county treasurer.

HISTORY: CL 1871, 716;—How. 755;—CL 1897, 2357;—CL 1915, 2137;—CL 1929, 1043;—CL 1948, 41.611.

COST OF BONDS: As to cost of bonds see Act 130 of 1915, being Compilers' § 41.601.

41.612 Sureties of township treasurer; insufficiency, new bond required by township board.

Sec. 2. Whenever the sureties in the bond given by any township treasurer to his township, as required by law, shall become insolvent, or shall remove out of the county, or shall in the opinion of the township board, become in any manner insufficient or whenever the penal sum named in such bond shall by said board be deemed insufficient, the township board may require the township treasurer to give a new bond to the township, with sufficient sureties, to be approved as required by law.

HISTORY: CL 1871, 717;—How. 756;—CL 1897, 2358;—CL 1915, 2138;—CL 1929, 1044;—CL 1948, 41.612.

41.613 New bond required; notification, time.

Sec. 3. Whenever the county treasurer or township board of the township, shall require a new bond of the township treasurer, as in this act provided, it shall be the duty of the supervisor forthwith to notify such township treasurer, in writing, of such requirement, and that he is required to give such new bond or bonds, as the case may be, within such time not less than 5 nor more than 10 days after such notice, as the supervisor may prescribe.

HISTORY: CL 1871, 718;—How. 757;—CL 1897, 2359;—CL 1915, 2139;—CL 1929, 1045;—CL 1948, 41.613.

41.614 New bond; issuance.

Sec. 4. When any new bond shall be required of any township treasurer as herein provided, it shall be his duty to give the same to the township, or the county treasurer, as the case may be, within the time prescribed by the supervisor, such bond to be of the amount, and to be approved as now required by law, in cases of bonds required to be given by such treasurers to the township or to the county treasurer.

HISTORY: CL 1871, 719;—How. 758;—CL 1897, 2360;—CL 1915, 2140;—CL 1929, 1046;—CL 1948, 41.614.

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41.615 New bond; refusal; new treasurer, appointment; liability of former sureties.

Sec. 5. If any township treasurer shall neglect or refuse to give any new bond required of him as herein provided, such refusal or neglect shall be deemed a refusal to serve, and thereupon the township board shall appoint a new treasurer for the remainder of the year, who shall give like security and be subject to like duties and penalties, and have the same powers and compensation as the treasurer in whose place he was appointed; and the township clerk shall immediately give notice of such appointment to the county treasurer, but such appointment shall not exonerate the former treasurer or his sureties from any liability incurred by him or them.

HISTORY: CL 1871, 720;—How. 759;—CL 1897, 2361;—CL 1915, 2141;—CL 1929, 1047;—CL 1948, 41.615.

41.616 Former treasurer; transfer of funds to new treasurer, accounting.

Sec. 6. Whenever any township treasurer appointed as provided in the preceding section shall have given the security required by law, the former treasurer shall forthwith deliver over all moneys in his hands by virtue of his office, and the tax-roll for the year, (if the same shall have been delivered to him) to such new treasurer; and shall, whenever required by the township board of the township, account to them for all moneys received or disbursed by him.

HISTORY: CL 1871, 721;—How. 760;—CL 1897, 2362;—CL 1915, 2142;—CL 1929, 1048;—CL 1948, 41.616.

41.617 New bond; requirement; delivery of tax roll.

Sec. 7. When any new bond shall be required of any township treasurer, as in this act provided, the tax-roll of the township for the year, shall not be delivered to him until he shall have given the required security.

HISTORY: CL 1871, 722;—How. 761;—CL 1897, 2363;—CL 1915, 2143;—CL 1929, 1049;—CL 1948, 41.617.

Act 144, 1969, p. 293; Imd. Eff. Jul. 31.

AN ACT to provide for the codification and publication of all township ordinances.

The People of the State of Michigan enact:

41.641 Township ordinances; codification, publication; repeals; revision.

Sec. 1. Each township may codify, recodify and continue in code its ordinances, in whole or in part, without the necessity of publishing the entire code in full. The ordinance adopting the code, as well as subsequent ordinances repealing, amending, continuing or adding to the code, shall be published as required by law. The ordinance adopting the code may amend, repeal, revise or rearrange ordinances or parts of ordinances by reference by title only.

HISTORY: New 1969, p. 293, Act 144, Imd. Eff. Jul. 31.

Act 168, 1877, p. 160; Eff. Aug. 21.

AN ACT to authorize supervisors of townships to administer oaths in certain cases.

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The People of the State of Michigan enact:

41.711 Ambulance and inhalator service; operation by township; joint action or contract.

Sec. 1. The township board of any township and the board of supervisors of any county may operate or join with another municipality or contract with persons, firms, organizations or corporations in operating or furnishing an ambulance and inhalator service for the use and benefit of the residents of the township or county. The service by the township or the county may be in connection with fire protection service or as a separate operation.

HISTORY: New 1960, p. 40, Act 50, Imd. Eff. Apr. 19;—Am. 1967, p. 314, Act 217, Imd. Eff. Jul. 10;—Am. 1968, p. 253, Act 163, Imd. Eff. Jun. 17.

41.711a Ambulance personnel; emergency care, civil liability.

Sec. 1a. Any municipal or private ambulance driver or attendant or policeman or fireman engaged in emergency first aid service, who, in good faith renders emergency care at the scene of an emergency, shall not be liable for any civil damages as a result of acts or omissions in rendering the emergency care, except acts or omissions constituting gross negligence or wilful and wanton misconduct.

HISTORY: Add. 1967, p. 314, Act 217, Imd. Eff. Jul. 10;—Am. 1968, p. 253, Act 163, Imd. Eff. Jun. 17.

41.711b Ambulance personnel; training, red cross first aid courses.

Sec. 1b. The municipality, person, firm, organization or corporation employing any ambulance driver, attendant, policeman or fireman engaged in performing emergency first aid service, shall require that they pass a red cross first aid course before they shall be entitled to the protection of this act.

HISTORY: Add. 1967, p. 314, Act 217, Imd. Eff. Jul. 10;—Am. 1968, p. 253, Act 163, Imd. Eff. Jun. 17.

Act 188, 1954, p. 453; Imd. Eff. May 5.

AN ACT to provide for the making of certain public improvements by townships; to provide for assessing the whole or a part of the cost thereof against property benefited; and to provide for the issuance of bonds in anticipation of the collection of such special assessments, and for the obligation of the township thereon.

The People of the State of Michigan enact:

41.721 Public improvements by township board; special assessments to defray cost.

Sec. 1. The township board shall have the power to make the hereinafter named improvements and to determine that the whole or any part of the cost thereof shall be defrayed by special assessments against the property especially benefited thereby. The cost of engineering services, all expenses incident to the proceedings for the making of the improvement and the financing thereof, and not to exceed 1 year's interest on any bonds to be issued hereunder, shall be deemed to be a part of the cost of the improvement.

HISTORY: New 1954, p. 453, Act 188, Imd. Eff. May 5.

CITED IN OTHER SECTIONS: Sections 41.721 to 41.737 are cited in §§ 42.31 and 247.353.

41.722 Public improvements authorized; sewers, water mains, highways, sidewalks, parks, trees, elevated structures for foot travel, collection of garbage and rubbish.

Sec. 2. The following improvements may be made under this act: (1) The construction and maintenance of sewers; (2) the construction of water mains; (3) the improvements of public highways by grading, graveling, paving, curbing or draining the same

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or constructing driveway approaches or sidewalks thereon; (4) the maintenance and improvement of parks or the trimming and spraying of trees; (5) the installation of elevated structures for foot travel over highways in the township; and (6) the collection of garbage and rubbish. No highway under the jurisdiction of either the state highway commissioner or the board of county road commissioners shall be improved under the provisions of this act without the written approval of the state highway commissioner or the board of county road commissioners. As a condition to the granting of such approval, the state highway commissioner or the board of county road commissioners may require that all engineering with respect to such improvement be performed by, and that all construction including the awarding of contracts therefor in connection with such improvement be under the supervision of and in accordance with the specifications of, the state highway commissioner or the board of county road commissioners and that the cost of such engineering and supervision be paid to the state highway commissioner or the board of county road commissioners from the funds of the special assessment district.

HISTORY: New 1954, p. 453, Act 188, Imd. Eff. May 5;—Am 1958, p. 182, Act 163, Eff. Sep. 13;—Am. 1964, p. 35, Act 30, Imd. Eff. May 1;—Am. 1966, p. 136, Act 116, Imd. Eff. Jun. 22.

41.723 Public improvements; petitions, filing, signatures; determination of sufficiency.

Sec. 3. No improvement shall be made hereunder unless a petition shall be filed with the township board, signed as follows: (a) In case of highway improvements, by the record owners of lands whose frontage constitutes at least 65% of the total frontage upon the highway improvements; and (b) in case of water mains or sewers, by record owners of lands constituting at least 51% of the total land area in the special assessment district as finally thereafter established by the township board. In any township with a population in excess of 5,000, after notification by mail to the owners of lands whose names appear on the latest tax roll, no petition shall be required for water mains or sewers and the township board may exercise the powers granted by this act on its own initiative in accordance with the provisions of this act, except as they relate to a petition or action with reference thereto, but no such improvement shall be made without petition if the record owners of land constituting more than 20% of the total land area in the special assessment district file their written objections thereto with the township board at or prior to the hearing described in section 4 of this act. Record owners shall be determined as of the records in the register of deeds' office on the day of the filing of the petition, or in case written objections are filed as above provided, then on the day of the hearing. In determining the sufficiency of the petition, lands not subject to special assessment and lands within public highway and alleys shall not be included in computing frontage or assessment district area. Any filed petition may be supplemented as to signatures by the filing of an additional signed copy or copies thereof, and in such case the validity of the signatures thereon shall be determined by said records on the day of filing the supplemental petition.

HISTORY: New 1954, p. 453, Act 188, Imd. Eff. May 5;—Am 1957, p. 237, Act 187, Imd. Eff. Jun. 4;—Am. 1961, p. 200, Act 143, Eff. Sep. 8.

41.724 Public improvements; plans and estimate, filing; publication of notice, hearing of objections; increase in cost, supplemental petition; railroad companies, designation of representative to receive notice.

Sec. 4. Upon receipt of such a petition, the township board, if it desires to proceed on the petition, shall cause to be prepared by a registered engineer, plans showing the improvement and the location thereof and an estimate of the cost thereof. Upon receipt of such plans and estimate, the township board shall order the same to be filed with the township clerk, and if it shall desire to proceed further with the improvement it shall by resolution tentatively declare its intention to make such improvement and

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tentatively designate the special assessment district against which the cost of said improvement is to be assessed. The township board shall then fix a time and place when and where it will meet and hear any objections to the petition, to the improvement and to the special assessment district therefor, and shall cause notice of such hearing to be given by the publication thereof twice prior to such hearing in a newspaper circulating in the township, the first publication to be at least 10 days prior to the time of the hearing. Such notice shall state that the plans and estimates are on file with the township clerk for public examination and shall contain a description of the proposed special assessment district. At the time of such hearing, or any adjournment thereof which may be without further notice, the township board shall hear any objections to the petition, to the improvement and to the special assessment district, and may revise, correct, amend or change the plans, estimate of cost and/or special assessment district: Provided, That no property shall be added to the district nor any increase in the estimate of cost in excess of 10% of the original estimate of cost be made unless notice be given as above provided, or by personal service upon the owners of the property in the entire proposed special assessment district and a hearing afforded to such owners. If property shall be added to the special assessment district and the original petition be insufficient because of said added property, then a supplemental petition shall be filed containing additional names. Railroad companies shall file with the secretary of state a paper stating the name and post office address of the person upon whom may be served notice of any proceedings under this act, and when such paper has been so filed, notice in addition to the notice by publication shall be given to such person by registered mail, or personally, within 5 days after the first publication of such notice. An affidavit of such service shall be filed by the township board with the proof of publication of such notice.

HISTORY: New 1954, p. 453, Act 188, Imd. Eff. May 5.

41.725 Public improvements; plans and estimate, approval by township board; determination of sufficiency of petition; special assessment roll, contents, certification.

Sec. 5. After the hearing provided for in the preceding section, if the township board then desires to proceed with the improvement, it shall by resolution determine to make the same and shall approve the plans and estimate of cost as originally presented or as revised, corrected, amended or changed, and shall also determine the sufficiency of the petition for the improvement. After such determination, the sufficiency of the petition shall not thereafter be subject to attack except in an action brought in a court of competent jurisdiction within 30 days after the adoption of the resolution determining such sufficiency. The township board after finally determining the special assessment district shall direct the supervisor to make a special assessment roll in which shall be entered and described all the parcels of land to be assessed, with the names of the respective owners thereof, if known, and the total amount to be assessed against each parcel of land, which amount shall be such relative portion of the whole sum to be levied against all parcels of land in the special assessment district as the benefit to such parcel of land bears to the total benefit to all parcels of land in the special assessment district. When the supervisor shall have completed the assessment roll, he shall affix thereto his certificate stating that it was made pursuant to a resolution of the township board adopted on a specified date, and that in making such assessment roll he has according to his best judgment conformed in all respects to the directions contained in such resolution and the statutes of the state of Michigan.

HISTORY: New 1954, p. 454, Act 188, Imd. Eff. May 5.

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41.726 Special assessment roll; filing; notice, hearing of objections; confirmation by township board.

Sec. 6. When any special assessment roll shall be reported by the supervisor to the township board the same shall be filed in the office of the township clerk. Before confirming such assessment roll the township board shall appoint a time and place when it will meet and review the same and hear any objections thereto, and shall cause notice of such hearing and the filing of such assessment roll to be published twice prior to such hearing in a newspaper circulating in the township, the first publication to be at least 10 days before such hearing. Such hearing may be adjourned from time to time without further notice. Any person objecting to the assessment roll shall file his objection thereto in writing with the township clerk before the close of such hearing or within such further time as the township board may grant. After such hearing the township board may confirm the special assessment roll as reported to it by the supervisor or as amended or corrected by it, or may refer it back to the supervisor for revision, or may annul it and direct a new roll to be made. When a special assessment roll shall have been confirmed the township clerk shall endorse thereon the date of the confirmation. After such confirmation the special assessment roll and all assessments thereon shall be final and conclusive unless attacked in a court of competent jurisdiction within 30 days after the date of confirmation.

HISTORY: New 1954, p. 454, Act 188, Imd. Eff. May 5.

41.727 Special assessment roll; annual installments, amount, due date, interest, delinquency; transfer to township tax assessment roll.

Sec. 7. Upon the confirmation of any special assessment roll, the township board may provide that the same shall be payable in 1 or more approximately equal annual installments, not exceeding 10 in the case of highway improvements and not exceeding 30 in the case of water and sewer improvements. The amount of each installment, if more than 1, need not be extended upon the special assessment roll until after confirmation. The first installment of a special assessment shall be due on or before such time after confirmation as the township board shall fix, and the several subsequent installments shall be due at intervals of 12 months from the due date of the first installment or from such other date as the township board shall fix. All unpaid installments prior to their transfer to the township tax roll as hereinafter provided shall bear interest, payable annually on each installment due date, at a rate to be set by the township board, not exceeding 6% per annum, from such date as shall be fixed by the township board. Future due installments of an assessment against any parcel of land may be paid to the township treasurer at any time in full, with interest accrued to the due date of the next installment. If any installment of a special assessment is not paid when due, then the same shall be deemed to be delinquent and there shall be collected thereon, in addition to interest as above provided, a penalty at the rate of 1/2 of 1% for each month, or fraction thereof, that the same remains unpaid before being reported to the township board for reassessment upon the township tax roll.

HISTORY: New 1954, p. 455 Act 188, Imd. Eff. May 5;—Am. 1957, p. 238, Act 187, Imd. Eff. Jun. 4.

41.728 Special assessments to constitute lien; character and effect.

Sec. 8. All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall from the date of confirmation of such roll, constitute a lien upon the respective parcels of land assessed. Such lien shall be of the same character and effect as the lien created for township taxes and shall include accrued interest and penalties. No judgment or decree or any act of the township board vacating a special assessment shall destroy or impair the lien of the township upon the premises assessed for such amount of the assessment as may be equitably

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charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

HISTORY: New 1954, p. 455, Act 188, Imd. Eff. May 5.

41.729 Special assessments; collection by township treasurer, report of delinquencies.

Sec. 9. When any special assessment roll shall be confirmed the township board shall direct the assessments made therein to be collected. The township clerk shall thereupon deliver to the township treasurer such special assessment roll, to which he shall attach his warrant commanding the township treasurer to collect the assessments therein in accordance with the directions of the township board in respect thereto. Said warrant shall further require the township treasurer on the 1st day of September following the date when any such assessments or any part thereof have become due to submit to the township board a sworn statement setting forth the names of the persons delinquent, if known, a description of the parcels of land upon which there are delinquent assessments and the amount of such delinquency, including accrued interest and penalties computed to September 1 of such year. Upon receiving such special assessment roll and warrant the treasurer shall proceed to collect the several amounts assessed therein as the same shall become due.

HISTORY: New 1954, p. 455, Act 188, Imd. Eff. May 5.

41.730 Special assessments; delinquencies, reassessment.

Sec. 10. In case the treasurer shall, as above provided, report as delinquent any assessment or part thereof, the township board shall certify the same to the supervisor, who shall reassess on the annual township tax roll of such year in a column headed "special assessments" the sum so delinquent, with interest and penalties to September 1 of such year, and an additional penalty of 6% of the total amount. Thereafter the statutes relating to township taxes shall be applicable to such reassessments.

HISTORY: New 1954, p. 455, Act 188, Imd. Eff. May 5.

41.731 Division of lands; apportionment of uncollected assessments.

Sec. 11. Should any parcel of land be divided after a special assessment thereon has been confirmed, and before the collection thereof, the township board may require the supervisor to apportion the uncollected amounts between the several divisions thereof and the report of such apportionment when confirmed by the township board shall be conclusive upon all parties: Provided, That if the interested parties do not agree in writing to such apportionment, then before such confirmation notice of hearing shall be given to all the interested parties, either by personal service or by publication as above provided in case of an original assessment roll.

HISTORY: New 1954, p. 456, Act 188, Imd. Eff. May 5.

41.732 Special assessment roll; insufficiency, additional pro rata assessments; surplus, refunds.

Sec. 12. Should the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the township board shall make additional pro rata assessments to supply the deficiency, but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement. Should the total amount collected on assessments prove larger than necessary by more than 5% of the original roll, then the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next township tax levied against such properties, respectively, or if there be no such tax then it shall be refunded to the persons who are the respective record owners of the properties on the date of the passage of the resolution ordering

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such refund. Any such surplus of 5% or less may be paid into the township contingent funds disposed of as above provided.

HISTORY: New 1954, p. 456, Act 188, Imd. Eff. May 5.

41.733 Illegal special assessment; reassessment proceedings.

Sec. 13. Whenever any special assessment shall, in the opinion of the township board, be invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the township board shall, whether the improvement has been made or not, whether any part of the assessment has been paid or not, have power to proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

HISTORY: New 1954, p. 456, Act 188, Imd. Eff. May 5.

41.734 Exempt corporations; agreement to pay assessment.

Sec. 14. The governing body of any public or private corporation whose lands are exempt by law may, by resolution, agree to pay the special assessments against such lands, and in such case the assessment, including all the installments thereof, shall be a valid claim against such corporation.

HISTORY: New 1954, p. 456, Act 188, Imd. Eff. May 5.

41.734a Assessment on platted corner lots; payment of portion by governing body.

Sec. 14a. The governing body of any township, by resolution, may agree to pay up to 1/3 of the cost of the special assessment levied against any platted corner lot for the payment of public improvements authorized under the provisions of this act.

HISTORY: Add. 1959, p. 275, Act 196, Eff. Mar. 19, 1960.

41.735 Special assessment bonds; issuance by township board, amount, interest, collection, deposit, execution.

Sec. 15. The township board may borrow money and issue the bonds of the township therefor in anticipation of the collection of special assessments to defray the cost of any improvement made under this act after the special assessment roll therefor shall have been confirmed. Such bonds shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued, and shall bear interest at a rate not exceeding 5% per annum. Collections on special assessments to the extent the same are pledged for the payment of bonds shall be set aside in a special fund for the payment of such bonds. The issuance of special assessment bonds shall be governed by the provisions of the general laws of the state applicable thereto. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 2 or more public improvements, but no special assessment district shall be compelled to pay the obligation of any other special assessment district. The township board may pledge the full faith and credit of the township for the prompt payment of the principal of and interest on the bonds authorized herein, as the same shall become due. Bonds issued hereunder shall be executed by the supervisor and township clerk and the interest coupons to be attached thereto shall be executed by said officials causing their facsimile signatures to be affixed thereto.

HISTORY: New 1954, p. 456, Act 188, Imd. Eff. May 5.

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41.735a Township improvement revolving fund; advancements, interest.

Sec. 15a. The township board as an alternate method of defraying the cost of any improvement made under the provisions of this act, after the special assessment roll therefor shall have been confirmed, may pay the cost of the improvement from the township improvement revolving fund. The amount shall not exceed the amount the board anticipates will be collected by the special assessments. The amount so advanced by the township shall bear interest at a rate not exceeding 5% per annum.

HISTORY: Add. 1956, p. 215, Act 109, Eff. Aug. 11.

41.735b Township improvement revolving fund; transfer of funds, amount.

Sec. 15b. The township board of any township by resolution may create and designate a fund to be known as the township improvement revolving fund and thereafter may transfer to such fund from the general fund of the township in any one year an amount not exceeding 2 mills of the state equalized valuation of the real and personal property in the township and thereafter may each year transfer from the general fund to the township improvement revolving fund until such fund shall be equal to 5 mills of the state equalized valuation of the real and personal property in the township. All interest charges collected shall become a part of such fund and the township board may transfer from the township improvement revolving fund to the general fund such sum or sums and at such time or times as in the judgment of the board should be transferred.

HISTORY: Add. 1956, p. 215, Act 109, Eff. Aug. 11.

41.736 Public improvements; powers granted to townships.

Sec. 16. The powers herein granted may be exercised by any township and shall be in addition to the powers granted by any other statute.

HISTORY: New 1954, p. 457, Act 188, Imd. Eff. May 5;—Am. 1961, p. 16, Act 14, Imd. Eff. May 9.

41.737 Scope of act.

Sec. 17. The provisions of this act shall not apply to any obligations issued or assessments levied except in accordance with the provisions of this act after the effective date thereof, and shall not validate any proceedings or action taken by any township prior to the effective date of this act.

HISTORY: New 1954, p. 457, Act 188, Imd. Eff. May 5.

Act 57, 1951, p. 76; Eff. Sep. 28.

AN ACT to provide for townships having an organized police or fire department, or both, for the creation of an administrative board; and to prescribe the powers and duties of such administrative board.

The People of the State of Michigan enact:

41.751 Police and/or fire administrative board; creation, membership, terms, compensation and expenses, vacancies.

Sec. 1. The township board of any township having an organized police or fire department, or both, is hereby authorized in its discretion to create a police administrative board, or a fire administrative board, or a police and fire administrative board. Any such board shall consist of 5 members, who shall be appointed by the township board for terms of 6 years each: Provided, That of the members first appointed, 2 shall be appointed for terms expiring on June 30 of the even numbered year following the creation of the board, 2 shall be appointed for terms expiring on June 30 of the second year following the terms of the first 2 members, and 1 member shall be appointed for a term expiring June 30 of the fourth year following the terms of the first 2 members. No

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member of any such board shall be a member of the police or fire department of such township. The members of the board shall serve without compensation but shall be entitled to actual and necessary expenses approved by the township board incurred in the performance of official duties. Any vacancy shall be filled by the township board for the unexpired term.

HISTORY: New 1951, p. 76, Act 57, Eff. Sep. 28.

41.752 Administrative board; preparation of annual budget, submission to township board, review, adoption; powers.

Sec. 2. It shall be the duty of the administrative board created under the provisions of this act to prepare an annual police and/or fire department budget to be submitted to the township board. Such budget shall be reviewed by the township board and may be amended or altered in any manner it may see fit. Upon adoption by the township board, such budget shall be the budget of the administrative board for the ensuing fiscal year of the township. The administrative board created under the provisions of this act shall have such other powers and perform such other functions as the township board in its discretion may delegate to the administrative board.

HISTORY: New 1951, p. 77, Act 57, Eff. Sep. 28.

41.753 Act supplemental.

Sec. 3. This act shall be construed as supplemental to the other laws of this state.

HISTORY: New 1951, p. 77, Act 57, Eff. Sep. 28.

Act 33, 1951, p. 33; Imd. Eff. May 8.

AN ACT to provide fire protection for townships, and for certain areas in townships and incorporated villages and for cities under 15,000 population; to authorize contracting for fire protection; to authorize the purchase of fire extinguishing apparatus and equipment, and the maintenance and operation thereof; to provide for defraying the cost thereof; to authorize the creation of special assessment districts, and for the levying and collecting of special assessments; to authorize the issuance of special assessment bonds in anticipation of the collection of special assessment taxes, to advance the amount necessary to pay such bonds, and providing for reimbursement for such advances by reassessment if necessary; and to repeal certain acts and parts of acts. Am. 1955, p. 329, Act 221, Eff. Oct. 14;—Am. 1960, p. 40, Act 51, Eff. Aug. 17;—Am. 1966, p. 126, Act 105, Imd. Eff. Jun. 22.

The People of the State of Michigan enact:

41.801 Township fire protection; expenditures, limitation.

Sec. 1. The township board of any township, or adjoining townships, acting jointly, whether or not such townships are located in the same county, may purchase fire extinguishing apparatus and equipment and housing for the same, and for that purpose may provide by resolution for the appropriation of general or contingent funds in an amount which in any one year shall not exceed 10 mills of the assessed valuation of the area in their respective townships for which fire protection is to be furnished.

Appropriation for maintenance and operation.

The township board of any township, or adjoining townships, acting jointly, whether or not such townships are located in the same county, may also provide annually by resolution for the appropriation of general or contingent funds for the purpose of maintenance and operation of a fire department, or for the providing of fire protection by contract.

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Special assessment; bonds.

The township board or boards acting jointly may provide that all or any part of the aforesaid sums for purchasing and housing of equipment or the operation thereof or contracting for protection may be defrayed by special assessment on all of the lands and premises in said township or townships to be benefited thereby, and may issue bonds in anticipation of the collection of said special assessments.

Special assessment; referendum.

The question of raising money by special assessment may be submitted to the electors of the affected area in the township or townships by the township board, or township boards acting jointly, and shall be submitted by the township board or township boards acting jointly on the filing of a petition so requesting, signed by at least 10% of the owners of the land in each of the affected townships, to be made into such a special assessment district, at any general election or special election called for that purpose by the township board or township boards acting jointly. No such special assessment district shall be created unless approved by a majority vote of the electors voting on the question at such an election.

Estimate of costs; hearing, notice; levy, collection.

In the case of the creation of a special assessment district, the township board, or township boards acting jointly, shall estimate the cost and expenses of such fire extinguishing apparatus and equipment and housing or fire protection and fix a day for a hearing on said estimate and on the question of creating a special assessment district and defraying any or all expenses thereof by special assessment upon the property to be especially benefited thereby. A notice stating the time, place and purpose of such meeting shall be published in a newspaper of general circulation in the district. If there be no such newspaper circulated therein, then notices shall be posted in at least 3 of the most public places in said district. Said notice shall be published or posted at least 5 days before the date of hearing. On the day appointed for the hearing, the board or boards acting jointly shall be in session from at least 7 p.m. to 9 p.m. to hear any objections which may be offered against said estimate and the creating of the district. If the township board or township boards acting jointly shall determine to create such a district, they shall determine the boundaries thereof by resolution, determine the amount of the special assessment levy, and direct the supervisor or supervisors to spread the same upon all of the lands and premises in such district which are to be especially benefited by the fire protection, according to benefits thereto, to defray the expenses of such fire protection. The township board, or township boards acting jointly, shall hold a hearing on objections to the spread of the special assessment levy, such hearing to be held in the same manner and with like notice as hereinbefore provided. The township board, or township boards acting jointly, shall thereafter annually determine the amount to be assessed in the district for fire protection and shall direct the supervisor or supervisors to spread such special assessment levy, and shall hold a hearing on the estimated costs and expenses of such fire protection and on the spread of such levy, which hearing shall be held as hereinbefore provided. Such assessment may be made either in a special assessment roll or in a column provided therefor in the regular tax roll. The assessment shall be spread and shall become due and be collected at the same time as other township taxes are assessed, levied and collected and shall be returned in the same manner for nonpayment. In the event that the collections received from such special assessment so levied to defray the cost or portion intended to be defrayed thereby of the fire protection shall be, at any time, insufficient to meet the obligations or expenses incurred for the maintenance and operation of the fire department, the township board of the township, or townships acting jointly, may, by resolution, authorize the transfer or loan of sufficient money therefor from the general

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fund of the township or townships, to said special assessment fire department fund, the same to be repaid to the general fund of the township or townships out of special assessment funds when collected.

HISTORY: New 1951, p. 33, Act 33, Imd. Eff. May 8;—Am. 1955, p. 329, Act 221, Eff. Oct. 14;—Am. 1970, p. 424, Act 134, Imd. Eff. Jul. 29.

41.802 Fire protection; annual appropriation by township board.

Sec. 2. The township board, or township boards acting jointly, in case of the creation of a special assessment district under section 1 of this act, thereafter may appropriate annually a sum of not to exceed 2 ½ mills of the assessed valuation of such township or townships or the area for which fire protection is to be furnished for the purpose of the maintenance and operation thereof or the providing of fire protection by contract.

HISTORY: New 1951, p. 35, Act 33, Imd. Eff. May 8.

41.803 Fire protection; special assessments; levy, annual installments; special assessment bonds, issuance; advancements by township board.

Sec. 3. All proceedings relating to the making, levying and collection of special assessments herein authorized and the issuing of bonds, except as herein otherwise specifically provided, shall conform as near as may be to proceedings provided for villages for like purposes as set forth in Act No. 3 of the Public Acts of 1895, as amended, being sections 61.1 to 75.12 of the Compiled Laws of 1948, except that special assessments may be paid in such number of equal annual installments not exceeding 15, as the board may determine.

The township board when authorized by a majority vote of the electors voting thereon may, at the time of issuance, pledge the full faith and credit of the township for the payment of such special assessment bonds; and if any special assessment fund is insufficient to pay such bonds and interest when due, the township board shall advance the amount necessary to pay such bonds, and shall be reimbursed from such assessments when collected, or by reassessment of the deficiency against such special assessment district, if necessary.

HISTORY: New 1951, p. 35, Act 33, Imd. Eff. May 8;—Am. 1955, p. 330, Act 221, Eff. Oct. 14;—Am. 1963, p. 53, Act 51, Imd. Eff. Apr. 29.

41.804 Fire protection; referendum, special election, laws governing.

Sec. 4. Any special election called under the provisions of this act shall be held under the laws of this state governing biennial township elections so far as the same may be applicable. In case a majority of qualified electors voting at such election shall vote in favor of such proposition, then the same shall be deemed and declared carried. The vote upon such proposition at any election shall be by ballot.

HISTORY: New 1951, p. 35, Act 33, Imd. Eff. May 8.

41.805 Fire protection ordinances and standard fire prevention codes; adoption, publication.

Sec. 5. The township board of any township, where appropriations have been made as herein provided, shall have power to enact such ordinances and establish and enforce such resolutions as they shall deem necessary to guard against the occurrence of fires and to protect the property and persons of the citizens against damage and accident resulting therefrom. Any township adopting ordinances under the provisions of this section shall have the power to adopt any standard fire prevention code which has been promulgated by the state or by any department, board or agency thereof, or by any national organization or association which is organized and conducted for the purpose of developing such codes with specific date of publication by reference thereto in an adopting ordinance and without publishing such code in full. The code shall be clearly identified in the ordinance and the purpose of the code shall be published with

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the adopting ordinance and printed copies shall be kept in the office of the township clerk, available for inspection by and distribution to the public at all times. The publication shall contain a notice to the effect that a complete copy of the code is available for public use and inspection at the office of the township clerk.

HISTORY: New 1951, p. 35, Act 33, Imd. Eff. May 8;—Am. 1961, p. 212, Act 148, Eff. Sep. 8.

41.806 Fire department; establishment by township board, rules and regulations; joint action; delegation of powers to administrative board.

Sec. 6. The township board of any township or townships acting jointly, where appropriations have been made as herein provided, shall have the power to establish and maintain a fire department; to organize and maintain fire companies; to employ and appoint a chief and such firemen and officers as shall be required for the proper and efficient operation and maintenance of the department; to make and establish rules and regulations for the government of the department, employees, firemen and officers thereof and for the care and management of the engines, apparatus, property and buildings pertaining to the department, and for the prescribing of the powers and duties of such employees, officers and firemen. The township board or boards of any township or townships may contract with the township board or legislative body of any township, city or village which maintains a fire department for the service thereof or for the care, maintenance and operation of said apparatus and equipment by the fire department of such township, city or village, upon such terms as may be agreed upon and may contract with the legislative body of any village which does not maintain a fire department to furnish fire protection to the village upon such terms as may be agreed upon. Any or all of the foregoing powers, at the discretion of the township board, may be delegated to a police or fire administrative board duly created and established according to law.

Contracts for use of fire apparatus or equipment.

Any township board or boards of 2 or more townships acting jointly, which have organized and are maintaining a fire department may also contract with other such township board or boards, or legislative bodies of townships, villages or cities which also maintain a fire department or with any person, organization or group to provide fire apparatus, equipment, personnel or fire protection.

HISTORY: New 1951, p. 35, Act 33, Imd. Eff. May 8;—Am. 1956, p. 14, Act 9, Imd. Eff. Mar. 9;—Am. 1961, p. 63, Act 66, Eff. Sep. 8;—Am. 1966, p. 130, Act 110, Imd. Eff. Jun. 22.

41.807 Repeals.

Sec. 7. Act No. 28 of the Public Acts of 1923, as amended, being sections 41.301 to 41.305, inclusive, of the Compiled Laws of 1948; Act No. 181 of the Public Acts of 1937, as amended, being sections 41.311 to 41.316a, inclusive, of the Compiled Laws of 1948; and Act No. 151 of the Public Acts of 1931, being sections 41.321 to 41.323, inclusive, of the Compiled Laws of 1948, are hereby repealed.

HISTORY: New 1951, p. 35, Act 33, Imd. Eff. May 8.

41.808 Rights or obligations safeguarded.

Sec. 8. The provisions of this act shall not be construed to impair or affect any special assessment district, or any rights accruing or any obligations thereof, created under the provisions of any act repealed by this act, but the same may be asserted and all the provisions of said repealed acts shall apply as may be necessary to safeguard any such rights or obligations existing thereunder.

HISTORY: New 1951, p. 36, Act 33, Imd. Eff. May 8.

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41.809 Joint meetings of township boards.

Sec. 9. For the purposes of this act, any joint meeting of township boards may be held in any one of the involved townships.

HISTORY: New 1951, p. 36, Act 33, Imd. Eff. May 8.

41.810 Fire protection for townships, villages and certain cities, joint action; restriction.

Sec. 10. The provisions of this act shall apply to townships, and adjoining townships and incorporated villages and cities under 15,000 inhabitants acting jointly. Whenever reference is made in this act to townships, such reference shall be deemed to mean and apply to townships and incorporated villages and cities under 15,000 inhabitants, and whenever reference is made in this act to township boards, such reference shall be deemed to mean and apply to township boards and the legislative bodies of incorporated villages and cities under 15,000 inhabitants. No township, incorporated village or city under 15,000 inhabitants shall in any way use this act to lessen the number of paid full time firemen in their respective communities.

HISTORY: Add. 1960, p. 40, Act 51, Eff. Aug. 17;—Am. 1966, p. 126, Act 105, Imd. Eff. Jun. 22.

Act 96, 1951, p. 127; Eff. Sep. 28.

AN ACT to authorize the township board of any township where there are lands serviced by a revenue bond water system to provide by special assessment for the payment of the reasonable cost and value of such water service for fire protection within the district served by said water system through fire hydrants and water mains. Am. 1965, p. 466, Act 272, Imd. Eff. Jul. 21.

The People of the State of Michigan enact:

41.831 Township water service for fire protection; district with revenue bond water system, special assessments authorized.

Sec. 1. In any township where there are lands serviced by a water system financed by revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.138, inclusive, of the Compiled Laws of 1948, having water service available for fire protection through fire hydrants and water mains, the township board may determine by resolution that the reasonable cost and value of such water service for fire protection within the district served by said water system shall be borne by special assessment levied annually, while bonds are outstanding, against all of the real property located within such district.

HISTORY: New 1951, p. 127, Act 96, Eff. Sep. 28.

41.832 Revenue bond water system district; designation of boundaries, determination of special assessments and payment from general fund.

Sec. 2. Such resolution of the township board shall designate the boundaries of such district, estimate and determine the reasonable annual cost and value of such water service for fire protection, determine what portion of such annual fire protection cost should be paid for by special assessment because of benefits and what portion, if any, should be paid by the township out of general funds.

HISTORY: New 1951, p. 127, Act 96, Eff. Sep. 28.

41.833 Use of unappropriated funds.

Sec. 3. The township board may use any unappropriated moneys in its general fund for this purpose, including moneys received under the provisions of section 23 of article 10 of the Michigan constitution.

HISTORY: New 1951, p. 127, Act 96, Eff. Sep. 28.

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41.834 Special assessment district; establishment, plans and estimate, public hearing.

Sec. 4. The township board shall fix a date for a public hearing upon the establishment of such district, the properties to be included therein, the estimate of the reasonable cost and value of the fire protection afforded annually, and the assessments to be levied against the respective lots comprised within said district.

HISTORY: New 1951, p. 128, Act 96, Eff. Sep. 28.

41.835 Assessment; levy by township supervisor.

Sec. 5. The township board shall thereupon direct such an assessment to be prepared by the township supervisor who shall levy the total sum estimated of fire protection benefit apportioned in accordance with benefits against all of the property located within said special assessment district benefited by such fire protection water service. The township supervisor shall thereupon report such assessment to the township board, which report shall be made before the date of said hearing.

HISTORY: New 1951, p. 128, Act 96, Eff. Sep. 28.

41.836 Assessment; method, collection, return for non-payment.

Sec. 6. Such assessment may be made either on a special assessment roll or in a column provided therefor on the regular township tax roll. After it has been confirmed it shall become due and collected at the same time as other township taxes fall due and are collected, and shall be returned in the same manner for non-payment if not paid.

HISTORY: New 1951, p. 128, Act 96, Eff. Sep. 28.

41.837 Special assessment district; notice of hearing, publication, posting.

Sec. 7. The township board shall thereupon give notice of such meeting and the time, place and purpose thereof by publishing a notice in a newspaper of general circulation in the district so proposed to be assessed, but if no newspaper is circulated therein, then notice shall be posted in at least 3 of the most public and conspicuous places in the district; such notice whether by publication or by posting shall be given at least 5 days before the date set for hearing.

HISTORY: New 1951, p. 128, Act 96, Eff. Sep. 28.

41.838 Special assessment district; hearing of objections, modifications.

Sec. 8. The township board shall hold and conduct said public hearing, and hear and consider all objections relative to the establishment of such district, the boundaries thereof and the properties to be included therein, the total amount so proposed to be assessed, the respective individual assessments so proposed on the individual properties thereof and after concluding said hearing shall determine whether or not said district shall be established and such assessments be levied.

It may change, correct and modify the district or the special assessments thereof as it deems equitable in accordance with benefits.

HISTORY: New 1951, p. 128, Act 96, Eff. Sep. 28.

41.839 Special assessment roll; review and conformation by township board.

Sec. 9. If the township board approves the establishment of such district it shall review, correct and confirm the assessment roll and direct that the same be collected forthwith in the same manner as other township taxes are collected.

HISTORY: New 1951, p. 128, Act 96, Eff. Sep. 28.

41.840 Special assessments; annual levy; further hearings.

Sec. 10. After the creation of said special assessment district, and while bonds are still outstanding, the township board may annually determine the amount to be assessed in said district and thereafter levy a like amount of annual assessments as special assessments against the benefited properties within said district.

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No further hearings shall be had unless a change in the amount of annual assessment against any individual property be contemplated or attempted.

HISTORY: New 1951, p. 128, Act 96, Eff. Sep. 28.

41.841 Special assessments; maximum.

Sec. 11. No such special assessment shall be levied against any property in any 1 year in excess of 20 cents per front foot, nor shall any such assessment exceed 5 per cent of the assessed valuation of said property in any 1 year.

HISTORY: New 1951, p. 128, Act 96, Eff. Sep. 28.

Act 181, 1951, p. 229; Eff. Sep. 28.

AN ACT to provide police protection for townships and for certain areas in townships; to authorize the purchase of police motor vehicles, apparatus and equipment, and the maintenance and operation thereof; to provide for defraying the cost thereof; to authorize the creation of special assessment districts, and for the levying and collection of special assessments.

The People of the State of Michigan enact:

41.851 Township police protection; purchase of motor vehicles, apparatus and equipment; appropriation by township board, joint action; special assessments, referendum; special assessment district, creation, estimate, notice, hearing, objections; assessment, levy; insufficiency, transfers from general fund.

Sec. 1. The township board of any township, or adjoining townships, acting jointly, whether or not such townships are located in the same county, may purchase police motor vehicles, apparatus and equipment and housing for the same, and for that purpose may provide by resolution for the appropriation of general or contingent funds in an amount which in any 1 year shall not exceed 10 mills of the assessed valuation of the area in their respective townships for which police protection is to be furnished.

The township board of any township, or adjoining townships, acting jointly, whether or not such townships are located in the same county, may also provide annually by resolution for the appropriation of general or contingent funds in an amount which shall not exceed 2 ½ mills of the assessed valuation of the area for which police protection is to be furnished for the purpose of maintenance and operation of a police department.

The said township board or boards, acting jointly, may provide that all or any part of the aforesaid sums for purchasing and housing of equipment and/or the operation thereof may be defrayed by special assessment on all of the lands and premises in said township or townships to be benefited thereby.

The question of raising money by special assessment may be submitted to the electors of the township or townships by the township board, or township boards acting jointly, and shall be submitted by the township board or township boards, acting jointly, on the filing of a petition so requesting, signed by at least 10 per centum of the owners of the land in each of the affected townships, to be made into such a special assessment district, at any general election or special election called for that purpose by the township board or township boards acting jointly.

In the case of the creation of a special assessment district, the township board, or township boards acting jointly, shall estimate the cost and expenses of such police motor vehicles, apparatus and equipment and housing and/or police protection, and fix a day for a hearing on said estimate and on the question of creating a special assessment

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district and defraying any or all expenses thereof by special assessment upon the property to be especially benefited thereby. A notice stating the time, place and purpose of such meeting shall be published in a newspaper of general circulation in the district. If there be no such newspaper circulated therein, then notices shall be posted in at least 3 of the most public places in said district. Said notice shall be published or posted at least 5 days before the date of hearing. On the day appointed for the hearing, the board or boards, acting jointly, shall be in session from at least 7 o'clock p.m. to 9 o'clock p.m. to hear any objections which may be offered against said estimate and the creating of the district. If the township board, or township boards acting jointly, shall determine to create such a district, they shall determine the boundaries thereof by resolution, determine the amount of the special assessment levy, and direct the supervisor or supervisors to spread the same upon all of the lands and premises in such district which are to be especially benefited by the police protection, according to benefits thereto, to defray the expenses of such police protection. The township board, or township boards acting jointly, shall hold a hearing on objections to the spread of the special assessment levy, such hearing to be held in the same manner and with like notice as hereinbefore provided. The township board, or township boards acting jointly, shall thereafter annually determine the amount to be assessed in said district for police protection and shall direct the supervisor or supervisors to spread such special assessment levy, and shall hold a hearing on the estimated costs and expenses of such police protection and on the spread of such levy, which hearing shall be held as hereinbefore provided. Such assessment may be made either in a special assessment roll or in a column provided therefor in the regular tax roll. The assessment shall be spread and shall become due and be collected at the same time as other township taxes are assessed, levied and collected and shall be returned in the same manner for non-payment: Provided, however, That in the event that the collections received from such special assessment so levied to defray the cost or portion intended to be defrayed thereby of said police protection shall be, at any time, insufficient to meet the obligations or expenses incurred for the maintenance and operation of said police department, the township board of said township, or townships acting jointly, may, by resolution, authorize the transfer or loan of sufficient money therefor from the general fund of said township or townships, to said special assessment police department fund, the same to be repaid to the general fund of the township or townships out of special assessment funds when collected.

HISTORY: New 1951, p. 230, Act 181, Eff. Sep. 28.

41.852 Police protection; annual appropriation by township board for maintenance and operation.

Sec. 2. The township board, or township boards acting jointly, in case of the creation of a special assessment district under section 1 of this act, thereafter may appropriate annually a sum of not to exceed 2 ½ mills of the assessed valuation of such township or townships or the area for which police protection is to be furnished for the purpose of the maintenance and operation thereof.

HISTORY: New 1951, p. 231, Act 181, Eff. Sep. 28.

41.853 Special assessments; levy and collection, provisions governing.

Sec. 3. All proceedings relating to the making, levying and collection of special assessments herein authorized and the issuing of bonds, except as herein otherwise specifically provided, shall conform as near as may be to proceedings provided for villages for like purposes as set forth in Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1951, p. 231, Act 181, Eff. Sep. 28.

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41.854 Police protection; referendum by special election, provisions governing.

Sec. 4. Any special election called under the provisions of this act shall be held under the laws of this state governing biennial township elections so far as the same may be applicable. In case a majority of qualified electors voting at such election shall vote in favor of such proposition, then the same shall be deemed and declared carried. The vote upon such proposition at any election shall be by ballot.

HISTORY: New 1951, p. 231, Act 181, Eff. Sep. 28.

41.855 Police department; establishment and maintenance by township board; joint action; delegation of powers to administrative board.

Sec. 5. The township board of any township or townships, acting jointly, where appropriations have been made as herein provided, shall have the power to establish and maintain a police department; organize and maintain police vehicles; to employ and appoint a chief of police and such police officers and detectives as shall be required for the proper and efficient operation and maintenance of the police department and proper law enforcement; to make and establish rules and regulations for the government of the department, employees, officers and detectives thereof; and for the care and management of the motor vehicles, equipment, property and buildings pertaining to the department, and for the prescribing of the powers and duties of such employees, officers and detectives. Any or all of the foregoing powers, at the discretion of the township board, may be delegated to a police or police and fire administrative board duly created and established according to law.

HISTORY: New 1951, p. 231, Act 181, Eff. Sep. 28.

41.856 Joint meetings of township boards.

Sec. 6. For the purposes of this act, any joint meeting of township boards may be held in any 1 of the affected townships.

HISTORY: New 1951, p. 231, Act 181, Eff. Sep. 28.

Act 207, 1953, p. 294; Eff. Oct. 2.

AN ACT to authorize township boards of certain defined townships to contract with cities or villages for the furnishing of water to such townships for fire protection and other purposes; to authorize such township boards to borrow funds necessary to acquire and install township water supply facilities required by such water supply contracts; to authorize persons, firms, corporations, banks and trust companies to loan funds for such purposes; to authorize such township boards to pledge sales tax diversion funds accruing to such townships for the purpose of securing payment of funds so borrowed; and to authorize township boards of such defined townships to enact such ordinances as may be necessary to effectuate the foregoing.

The People of the State of Michigan enact:

41.871 Water supply contracts for fire protection and domestic purposes; authorization of township board to enter.

Sec. 1. The township board of any township now or hereafter having a population of 5,000 or over, according to the latest or each succeeding federal decennial census, is hereby authorized to contract with any city or village for the supplying to such township of water for fire protection and domestic purposes, under such terms and conditions as may be agreed upon between said township board and the legislative body of such city or village.

HISTORY: New 1953, p. 294, Act 207, Eff. Oct. 2.

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41.872 Water supply contracts; authorization of township board to incur indebtedness for installation and maintenance of facilities; limitation.

Sec. 2. The township board of any such township is hereby authorized to borrow, but subject to prior permission of the municipal finance commission, such sums of money as may be necessary to acquisition and installation by such township of water supply facilities, including water mains and elevated water tanks which are required of such township by the terms of any such water supply contract, any previously enacted statute to the contrary notwithstanding: Provided, That at no time shall the total outstanding indebtedness under this act exceed $250,000.

HISTORY: New 1953, p. 294, Act 207, Eff. Oct. 2.

41.873 Issuance of notes; annual installments, interest; computation of amounts; payment of principal and interest, separate fund.

Sec. 3. All notes issued hereunder shall be subject to the following provisions:

(a) Shall be payable in annual installments the aggregate of which shall not exceed 10, the first of which shall be due not later than August 1st of the next succeeding calendar year and subsequent maturities, if any, shall likewise be payable August 1st; shall bear interest at a rate or rates not exceeding 4% per annum, payable semi-annually, and may be made subject to redemption on any interest payment date prior to maturity as [sic] par and accrued interest on such terms and conditions as shall be provided in the authorizing resolution.

(b) For the purpose of computing the amount or amounts which may be borrowed, a loan made hereunder shall not, when payable, as hereinafter set forth, exceed that percentage of the total aggregate revenues derived from sales tax funds received by the township for the 5 calendar years next preceding:

(1)	In 10	installments	40%
(2)	In 9	installments	36%
(3)	In 8	installments	32%
(4)	In 7	installments	28%
(5)	In 6	installments	24%
(6)	In 5	installments	20%
(7)	In 4	installments	16%
(8)	In 3	installments	12%
(9)	In 2	installments	8%
(10)	In 1	installment	4%

(c) The resolution authorizing such borrowing shall contain an irrevocable appropriation providing for the payment of the principal and interest thereof from the moneys to be derived from state collected sales tax returned to the township, and thereafter the township treasurer shall set aside in a separate fund from such revenues received in each year an amount sufficient for the payment of the principal and interest of such loan maturing August 1st next. At no time shall the full faith and credit of the township be pledged.

HISTORY: New 1953, p. 295, Act 207, Eff. Oct. 2.

41.873a Issuance of notes; approval; sale.

Sec. 3a. The municipal finance commission may in its discretion approve or deny, in whole or in part, such borrowing and the issuing of notes therefor. Notes authorized hereunder shall be advertised and sold as provided by section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943 as amended.

HISTORY: New 1953, p. 295, Act 207, Eff. Oct. 2.

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41.874 Ordinance pledging sales tax funds; authorization.

Sec. 4. To secure repayment of any loan authorized by the terms of this act, such township board is hereby authorized to pledge, by ordinance as herein provided, all or any specified portion of sales tax funds to be received by such township, under and by virtue of the sales tax diversion amendment of the constitution, during the period such loan remains outstanding.

HISTORY: New 1953, p. 295, Act 207, Eff. Oct. 2.

41.875 Ordinance pledging sales tax funds; provisions.

Sec. 5. Such ordinance may if desired provide that the county treasurer, or other official charged with disbursement of sales tax funds returnable to such township pursuant to such amendment of the constitution, shall withhold and pay to the lending person, firm, corporation, bank or trust company such of the constitutionally allocated funds of such township as may be necessary to proper fulfillment of such pledge.

HISTORY: New 1953, p. 295, Act 207, Eff. Oct. 2.

41.876 Ordinance; adoption, effective date, record, publication.

Sec. 6. For the purpose of this act, such township board, by the affirmative vote of a 2/3 majority of its members, is authorized to adopt an ordinance or ordinances relating to the exercise of the powers herein granted and to any other matters necessary or desirable to effectuate the full intent and purpose of this act, including provisions for control and maintenance of such water supply facilities, charges for rights of connection with such facilities for water service, charges for water delivered by means of such facilities, and such other provisions as will insure the proper and adequate operation of such facilities. Any ordinance adopted hereunder shall become effective at expiration of 30 days next following the date of its publication unless, during such 30 day period and in accordance with section 8 hereof, a referendum thereof to the electors of such township is petitioned. Any such ordinance shall be recorded in the minutes of the meeting of such township board as soon as practicable after its adoption, which record shall be authenticated by the signatures of the supervisor and clerk of such township. Such ordinance shall be published promptly after its adoption in a newspaper of general circulation within such township. The publication of such ordinance as a part of the minutes of the meeting at which it was adopted shall be deemed a publication in conformity with this act. Except as otherwise provided herein, the provisions of this section shall constitute the sole requirements in respect to the adoption and publication of any such ordinance and shall not be limited by other statutory provisions.

HISTORY: New 1953, p. 295, Act 207, Eff. Oct. 2.

41.877 Ordinance; petition for referendum, signatures, verification.

Sec. 7. If, within 30 days from the publication of such ordinance, a petition signed by not less than 10 per centum of the registered electors residing within the limits of such township shall have been filed with the township clerk requesting a referendum upon the effectiveness of such ordinance, then such ordinance shall not become effective until approved by vote of a majority of the electors of such township qualified to vote and voting thereon, at a general or special election. Signatures on any such petition shall be verified by some person or persons under oath as the actual signatures of persons whose names are signed thereto, and the township clerk shall have the same power to reject signatures and petitions as city clerks possess by law. The number of registered electors in such township shall be determined by the township registration books.

HISTORY: New 1953, p. 296, Act 207, Eff. Oct. 2.

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41.878 Water supply contracts; powers granted to townships.

Sec. 8. The powers herein granted shall be in addition to those heretofore granted such defined townships by other statute.

HISTORY: New 1953, p. 296, Act 207, Eff. Oct. 2.

Act 27, 1960, p. 23; Eff. Aug. 17.

AN ACT authorizing townships to establish retirement systems and make contracts of group insurance and arrangements with prepayment plans for the benefit of its elected or appointed officers and employees; to provide for the deduction of contributions from officers' and employees' compensation; and to permit the exercise of the authority granted without the necessity of a charter amendment. Am. 1965, p. 134, Act 103, Imd. Eff. Jun. 28.

The People of the State of Michigan enact:

41.901 Township retirement systems; contracts of group insurance; arrangements for prepayment plan coverage; contracts for annuities or pensions; authorization of township to institute.

Sec. 1. Any township may:

(a) Establish a retirement system for its employees and provide for financing, funding and the payment of benefits in the same manner and to the same extent as permitted counties under section 12a of Act No. 156 of the Public Acts of 1851, as amended, being section 46.12a of the Compiled Laws of 1948; or to make contracts of insurance with any insurance company authorized to transact business within the state.

(b) Make arrangements with any prepayment plans authorized to transact business within the state, insuring and covering its elected or appointed officers and employees or any classes thereof, under policies of group insurance or prepayment plan contracts, or both, covering life, health, hospitalization, medical and surgical service and expense and accident insurance, or any one or more of such forms of insurance or prepayment plan coverage, including hospitalization and medical and surgical expense insurance or prepayment plan coverage for dependents of such officers and employees.

(c) Contract with any such company granting annuities or pensions for the pensioning of the officers and employees and for such purposes may pay any part of the premiums or charges for such insurance, prepayment plan coverage, annuities or pensions.

HISTORY: New 1960, p. 23, Act 27, Eff. Aug. 17;—Am. 1961, p. 73, Act 73, Eff. Sep. 8;—Am. 1965, p. 134, Act 103, Imd. Eff. Jun. 28.

41.902 Group insurance; payroll deduction of premiums or charges.

Sec. 2. Notwithstanding any other provision of law, the proper disbursing officer of the township may deduct from the officers' or employees' pay, salary or compensation such part of the premium or charge as is payable by the officer or employee.

HISTORY: New 1960, p. 23, Act 27, Eff. Aug. 17.

41.903 Insurance contract or arrangement for prepayment plan coverage; eligibility, notice of noncoverage.

Sec. 3. Any contract of insurance or arrangement for prepayment plan coverage procured pursuant to this act may provide that each elected or appointed officer or employee becoming eligible for insurance or coverage thereunder shall become insured or covered automatically when he becomes eligible, subject to any actively-at-work requirements specified in the contract or arrangement. If the insurance or coverage under the contract or arrangement requires contributions from the individual, any individual desiring not to be so insured or covered shall give written notice to his em-

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ploying office that he desires not to be insured or covered, and if the notice is received before the individual has become insured or covered under the contract or arrangement, he shall not be insured or covered thereunder. If the notice is received after the individual has become insured or covered, his insurance or coverage under the contract or arrangement shall cease as provided for in the contract or arrangement.

HISTORY: New 1960, p. 23, Act 27, Eff. Aug. 17.

41.904 Validity of former programs unaffected.

Sec. 4. The provisions of this act shall not affect the validity of any retirement program or contract of group insurance or arrangement for prepayment plan coverage previously entered into by the township.

HISTORY: New 1960, p. 24, Act 27, Eff. Aug. 17.

41.905 Construction of act; additional powers; amendment of charter.

Sec. 5. The authority hereby given shall be in addition to and not in derogation of any power existing in the township under the provisions of any statute or any charter now in effect.

Any township may exercise the powers granted hereunder by ordinance without necessity of amending its charter.

HISTORY: New 1960, p. 24, Act 27, Eff. Aug. 17.

Act 67, 1961, p. 64; Eff. Sep. 8.

AN ACT to authorize township boards to provide for the repair and maintenance of sidewalks outside of the limits of incorporated cities and villages; and to provide for the payment of the expenses so incurred.

The People of the State of Michigan enact:

41.921 Township sidewalks; annual appropriation for maintenance and repair, limitations.

Sec. 1. The township board of any township, at any regular meeting or at any special meeting called for that purpose, may vote a sum not exceeding $6,000.00 for any one year to provide for the repair and maintenance of sidewalks in the township, located outside of the limits of incorporated cities and villages, the expenses of such repairs and maintenance to be paid out of the contingent fund of the township. In townships having an assessed valuation of less than $1,000,000.00, the township board shall not vote a sum exceeding $1,000.00 for any one year for such purpose. In townships having an assessed valuation of more than $1,000,000.00 but less than $7,000,000.00, the township board shall not vote a sum exceeding $2,500.00 for any one year for such purpose. In townships having an assessed valuation of more than $7,000,000.00 but less than $15,000,000.00, the township board shall not vote a sum exceeding $5,000.00 for any one year for any such purpose.

HISTORY: New 1961, p. 64, Act 67, Eff. Sep. 8.

CITED IN OTHER SECTIONS: Sections 41.921 to 41.925 are cited in § 560.203.

41.922 Special assessment district; establishment; notice, hearing.

Sec. 2. The township board, at any regular meeting, either on its own motion or upon petitions signed by not less than 10 freeholders in the district described in the petitions for repair and maintenance of sidewalks, after 60 days' notice by certified mail, may order the expenses for the repair and maintenance of such sidewalks to be defrayed by a special assessment on all the taxable lands and premises in the territory described in the petitions or in the order of the township board. The township board shall thereafter estimate the cost and expenses of such repair and maintenance of side-

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walks and fix a day for hearing on the question of creating such a district and defraying the expenses thereof by special assessment. A notice stating the time, place and purpose of such meeting shall be published in a newspaper of general circulation in the district. If there is no such newspaper circulated therein, then notices shall be posted in at least 3 of the most public places in the district. The notice shall be published or posted at least 5 days before the date of hearing.

HISTORY: New 1961, p. 64, Act 67, Eff. Sep. 8.

41.923 Special assessment district; boundaries; annual assessment, levy, collection, return.

Sec. 3. If the board creates such a district, it shall fix the boundaries thereof by resolution and direct the supervisor to make a special assessment upon all the lands and premises subject to taxation to defray the expenses of repairing and maintaining the sidewalks or to defray that portion of the expenses to be assessed against the district. The board shall thereafter annually determine the amount to be assessed in the district for the repair and maintenance of sidewalks and shall direct the supervisor or assessor to levy such amount therein. The assessment may be made either in a special assessment roll or in a column provided therefor in the regular tax roll. The assessment shall be spread and become due and be collected at the same time as the other township taxes are assessed, levied and collected and shall be returned in the same manner for nonpayment.

HISTORY: New 1961, p. 64, Act 67, Eff. Sep. 8.

41.924 Sidewalk maintenance; transfer of cost from district to township.

Sec. 4. Any district which repairs and maintains its sidewalks under the provisions of this act may be relieved therefrom by action of the township board on its own motion or by a petition to the township board as provided in section 2.

HISTORY: New 1961, p. 65, Act 67, Eff. Sep. 8.

41.925 Scope of act.

Sec. 5. Nothing in this act shall affect Act No. 246 of the Public Acts of 1931, as amended, being sections 41.271 to 41.285 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 65, Act 67, Eff. Sep. 8.

Act 35, 1966, p. 60; Imd. Eff. May 26.

AN ACT to provide for the construction of sidewalks in townships; to authorize township boards to construct or order the construction of sidewalks; and to provide for the payment thereof.

The People of the State of Michigan enact:

41.931 Construction of township sidewalks; authority of township board.

Sec. 1. The township board of any township may order the construction or construct sidewalks in any designated area within the township because of the health, safety or welfare of the residents of the township.

HISTORY: New 1966, p. 60, Act 35, Imd. Eff. May 26.

41.932 Sidewalk construction; public meeting, notice.

Sec. 2. The township board shall hold a public meeting relative to the ordering of the sidewalk construction and shall notify all property owners involved of the time and place of the hearing.

HISTORY: New 1966, p. 60, Act 35, Imd. Eff. May 26.

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41.933 Sidewalk construction; assessment; approval of state or county highway authority.

Sec. 3. If the board determines the necessity of constructing sidewalks, it may construct the sidewalks and assess the costs to the property involved, payable over a 5-year period or permit the owners of the property involved to have the sidewalks constructed according to township specifications at their own expenses. Sidewalks constructed under the provisions of this act on the right-of-way of state highways or county roads must have the approval of the state or county highway authority having jurisdiction over the highway or road.

HISTORY: New 1968, p. 60, Act 35, Imd. Eff. May 26.

Act 28, 1968, p. 56; Imd. Eff. May 17.

AN ACT to authorize township boards to appropriate funds for purposes of advertising the township.

The People of the State of Michigan enact:

41.991 Advertisement of state, county or township agricultural advantages; appropriation by township board.

Sec. 1. The board of any township may appropriate moneys or expend funds to be used for advertising agricultural advantages of the state, county or township, or for collecting, preparing or maintaining an exhibition of the products and industries of the township at any domestic or foreign exposition, for the purpose of encouraging immigration and increasing the trade in the products of this state or the township, or advertising the state and any portion thereof for tourists and resorters.

HISTORY: New 1968, p. 56, Act 28, Imd. Eff. May 17.

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CHAPTER 42. CHARTER TOWNSHIPS

CHARTER TOWNSHIPS

Act 359 of 1947

42.1 Charter townships; incorporation; powers, privileges, immunities and liabilities; petition, special census, expenses.

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42.32 Succession to properties of former township; suits or prosecutions, debts and liabilities, uncollected taxes and assessments.

42.33 Liberal construction of act.

42.34 Incorporation as or annexation to city or village.

Act 359, 1947, p. 684; Eff. Oct. 11.

AN ACT to authorize the incorporation of charter townships; to provide a municipal charter therefor; and to prescribe the powers and functions thereof.

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The People of the State of Michigan enact:

42.1 Charter townships; incorporation; powers, privileges, immunities and liabilities; petition, special census, expenses.

Sec. 1. Any township, having a population of 2,000 or more inhabitants according to the most recently made regular or special federal or state census of the inhabitants thereof, or to any such census hereafter taken shall have power to incorporate as a charter township which shall be a municipal corporation, to be known and designated as the charter township of ....., and each township which incorporates as a charter township shall be subject to the provisions of this act, which act shall constitute the charter of such municipal corporation. Each such charter township, its inhabitants, and the officers thereof, shall have, except as otherwise provided in this act, all the powers, privileges, immunities and liabilities possessed by townships, their inhabitants, and by the officers of townships by law and under the provisions of chapter 16 of the Revised Statutes of 1846. A special census of the inhabitants of any township desiring to incorporate under the provisions of this act shall be taken by the secretary of state upon receipt of a petition signed by not less than 100 registered electors of the township. Within 5 days after receipt of such petition, the secretary of state shall appoint an enumerator or enumerators to enumerate inhabitants of such township who shall qualify for the office of enumerator, enumerate the inhabitants of such township, and make a return thereof in the manner provided in section 6 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.6 of the Compiled Laws of 1948. Such census, when accepted by the secretary of state shall fix the population of any township so enumerated for the purposes of this act. All expenses incident to such special census shall be paid for by the township so petitioning.

HISTORY: CL 1948, 42.1;—Am. 1949, p. 65, Act 70, Eff. Sep. 23;—Am. 1967, p. 352, Act 238, Eff. Nov. 2.

42.2 Incorporation; referendum; ballot, form and content; filing of petition or resolution by township clerk; finality of proceedings; term of incumbent officers; disincorporation.

Sec. 2. Any eligible township shall become a charter township when the inhabitants thereof shall, by a majority vote of the electors thereof, voting on such proposition, declare in favor thereof at any general or special election at which the proposition to incorporate as a charter township shall be submitted to the electors of the township. At such election the township clerk shall prepare a ballot for the submission of such proposition in accordance with the general election laws of the state and setting forth such proposition as follows:

"Shall the township of ..... incorporate as a charter township which shall be a municipal corporation subject to the provisions of Act No. 359 of the Public Acts of 1947, as amended, which act shall constitute the charter of such municipal corporation?

Yes ( )

No ( )"

If on the vote being canvassed on the question of incorporation as a charter township, the result is determined to be in favor of such incorporation, the township clerk shall file with the secretary of state and with the county clerk of the county within which the township is located a copy of the petition or resolution initiating the move to become a charter township, together with the notice of the election at which such question was submitted to the electors of the township, the ballot upon which such question was submitted, and a certificate of the board of canvassers showing that the purposes of such petition or resolution have been approved by a majority of the electors of the township voting thereon, which certificate shall also give the number of votes cast on such proposition and the number cast for and against the same. From the

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date of such filing, the township shall be duly and legally incorporated as a charter township. After the filing of such petition or resolution and the other papers hereinabove required, neither the sufficiency thereof nor the legality of the incorporation of the township as a charter township may be questioned in any proceeding except by proceedings in the nature of quo warranto which shall be brought within 40 days after the date of such filing. All officers of any township which shall elect to become a charter township shall serve in the offices to which they have been elected or appointed for the balance of the terms for which they were elected or appointed and until their successors elect or to be elected shall qualify for and assume their respective offices. Any charter township may be disincorporated and returned to its previous status as a township governed under the provisions of chapter 16 of the Revised Statutes of 1846, as amended, being sections 41.1 to 41.103 of the Compiled Laws of 1948, by following the same procedures therefor as provided herein for adopting the provisions of this act. No election to disincorporate shall be held until 4 years after incorporation nor oftener than once each 4 years.

HISTORY: CL 1948, 42.2;—Am. 1949, p. 66, Act 70, Eff. Sep. 23;—Am. 1964, p. 202, Act 163, Eff. Aug. 28.

42.3 Incorporation; submission of proposition to electors, time; petitions, verification of signatures.

Sec. 3. The proposition to incorporate as a charter township shall be submitted at the next general or at a special election in the event that, on or before August 30, or, in the event of a special election, not less than 60 days, preceding such election, the township board shall vote to submit such proposition to the electors of the township, or in the event that there shall be filed with the township clerk on or before such date petitions requesting the submission of such proposition which have been signed by a number of electors of the township which shall not be less than 10% of the total vote cast for supervisor in the township at the last election in which a supervisor was elected. The township clerk shall check the signatures on such petitions with those of the electors signing such petitions as they appear on the registration cards of the township and, if such petitions bear the required number of signatures of electors of the township, shall do and perform all acts required for the submission of the proposition to become a charter township at the next general or special election.

HISTORY: CL 1948, 42.3;—Am. 1964, p. 203, Act 163, Eff. Aug. 28.

42.4 Township officers; nomination of candidates, filing of petitions; township clerk, duties; board of township election commissioners, membership, duties.

Sec. 4. All candidates for township office in charter townships shall be nominated at the general primary election held in such township prior to each general election at which township officers are to be elected, which primary election shall be conducted in accordance, as near as may be, with the provisions of Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Compiled Laws of 1948. To obtain the printing of the name of any candidate of any political party for a township office under the particular party heading on the official primary election ballot of the township, there shall be filed with the township clerk of the township up to 4 p.m., eastern standard time, of the seventh Tuesday before the day designated for holding any such primary election, nomination petitions bearing the signatures of a number of registered and qualified voters of such township equal to not less than 1% nor more than 4% of the total number of votes cast for the office of supervisor in the township in the last election in which a supervisor was elected. All the duties which devolve upon the county clerk in the conduct of primary elections shall be performed by the township clerk with respect to the nomination of township officers, and the duties of the county board of election commissioners shall be performed for each township by a

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board of township election commissioners to be composed of the township clerk, and the 2 trustees appointed by the township board. At the election on the proposition to incorporate as a charter township, the township board shall designate 2 of the justices of the peace to act on such board.

HISTORY: CL 1948, 42.4;—Am. 1949, p. 66, Act 70, Eff. Sep. 23;—Am. 1954, p. 396, Act 169, Eff. Aug. 13;—Am. 1964, p. 203, Act 163, Eff. Aug. 28.

42.5 Charter township board; membership, election; justices of the peace, powers and duties, election.

Sec. 5. Except as otherwise provided in this act, all legislative authority and powers of each charter township shall be vested in and shall be exercised and determined by a township board of 7 members composed of the supervisor, the township clerk, the township treasurer and 4 trustees who shall be electors in and taxpayers to the township. In the event the provisions of this act shall be adopted, the township board as constituted at the time of the adoption of this act shall constitute the township board until the first general election at which township officers are elected after the adoption of this act. All members of the township board shall be elected under the provisions of Act No. 116 of the Public Acts of 1954, as amended. There shall also be elected in each charter township 2 justices of the peace who shall be the judicial officers of the township and who shall possess the jurisdiction and powers and shall execute the duties of justices of the peace in townships. The 2 justices of the peace shall be elected at the general election under the provisions of Act No. 116 of the Public Acts of 1954, as amended.

Township board, powers; supervisor, president pro tem; record of proceedings.

Such township board shall be the successor to the prior township board of the township and shall possess the powers and perform the duties of township boards in townships in addition to the powers granted by law to charter townships. As a member of the township board, the supervisor shall be the presiding and executive officer thereof and shall have an equal voice and vote in the proceedings of the board. He shall authenticate by his signature such instruments as the board and the laws of the state or the federal government may require. In the event of the absence of the supervisor from any meeting of the township board, said board shall appoint 1 of its members president pro tem for such meeting. The township clerk shall be clerk of the township board and shall keep a full record of all the proceedings of the township board. In the absence of the clerk, such board shall appoint 1 of its members as temporary clerk for such meeting.

HISTORY: CL 1948, 42.5;—Am. 1949, p. 67, Act 70, Eff. Sep. 23;—Am. 1953, p. 250, Act 188, Eff. Oct. 2;—Am. 1954, p. 397, Act 169, Eff. Aug. 13;—Am. 1964, p. 204, Act 163, Eff. Aug. 28.

42.6 Charter township board members; compensation and expenses.

Sec. 6. Each trustee may receive, in addition to other emoluments provided by law for his service to the township, not to exceed the sum of $15.00 per meeting of the board actually attended by him, but not to exceed in total $1,000.00 per year, to be paid upon authorization of the township board. The supervisor, the township clerk and the township treasurer shall receive no additional compensation for attending meetings of the board. Reasonable expenses may be allowed to members of the township board when actually incurred on behalf of the township.

HISTORY: CL 1948, 42.6;—Am. 1953, p. 251, Act 188, Eff. Oct. 2;—Am. 1962, p. 17, Act 20, Eff. Mar. 28, 1963.

42.7 Charter township board; regular and special meetings, notice; public attendance, quorum, rules, voting; records, access; attendance; enforcement of section.

Sec. 7. (a) The township board shall provide by resolution for the time and place of its regular meetings and shall hold at least 1 regular meeting each month. If any time

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set for the holding of a regular meeting of the township board shall be a holiday, then such regular meeting shall be held at the same time and place on the next secular day which is not a holiday.

(b) Special meetings of the township board shall be called by the township clerk on the written request of the supervisor or of any 2 members of the township board, on at least 24 hours written notice to each member of the township board, designating the time, place, and purpose of any such meeting and served personally or left at his usual place of residence by the township clerk or someone designated by him. Notwithstanding the foregoing requirements for the calling of special meetings, any special meeting of the township board at which all members of the said board are present or have, in writing, waived the requirements that notice be given at least 24 hours prior to the time specified for the holding of such meeting and at which a quorum of the said board is present, shall be a legal meeting.

(c) No business shall be transacted at any special meeting of the township board unless the same has been stated in the notice of such meeting. However, if all the members of the said board are present at any special meeting thereof, then any business which might lawfully come before a regular meeting of the said board may be transacted at such special meeting.

(d) All regular and special meetings of the township board shall be open to the public and its rules of order shall provide that citizens shall have a reasonable opportunity to be heard.

(e) Four members of the township board shall be a quorum for the transaction of business at all meetings, but, in the absence of a quorum, 2 members may adjourn any regular or special meeting to a later date.

(f) The township board shall determine its own rules and order of business and shall keep a journal of all of its proceedings in the English language which shall be signed by the supervisor and the township clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions and ordinances shall be taken by "Yes" and "No" votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Each member of the township board who shall be recorded as present shall vote on all questions decided by the said board unless excused by the unanimous consent of the other members present. Any citizen or taxpayer of the township shall have access to the minutes and records of all regular and special meetings of the said board at all reasonable times under supervision of the clerk.

(g) The township board may, by vote of not less than 2 of its members, compel the attendance of its members and other officers of the township at its regular and special meetings and enforce orderly conduct therein; and any member of the said board or other officer of the township who refuses to attend such meetings or conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in office. The township marshal shall serve as the sergeant-at-arms of the township board in the enforcement of the provisions of this section.

HISTORY: CL 1948, 42.7;—Am. 1949, p. 67, Act 70, Eff. Sep. 23.

42.8 Charter township board; monthly publication of proceedings, notices and ordinances.

Sec. 8. The proceedings of the township board shall be published at least once each month. The publication of a synopsis of such proceedings, prepared by the township clerk and approved by the supervisor, showing the substance of each separate proceeding of the said board shall be a sufficient compliance with the requirements of this section. The said board shall determine the method of publication of all notices, ordinances, and proceedings for which a mode of publication is not prescribed by this act

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or ordinance. The said board shall determine that such publication shall be made in a newspaper, as defined by state law, which is published and circulated in the township, if there be one so published and circulated, or in the event that there be no such newspaper, then in one published in the county in which the township is located, or that such publication shall be made by posting in the office of the clerk and in 5 other public places in the township. In case publication is made by posting, a notice of such posting, setting forth by a descriptive phrase the purpose or nature of the notice, ordinance, or proceeding posted, and location of the places where posted, shall be published at least once in a newspaper, as above required, within 7 days after such posting was done.

HISTORY: CL 1948, 42.8;—Am. 1949, p. 68, Act 70, Eff. Sep. 23.

42.9 Township officers; powers and duties; additional officers, limitations.

Sec. 9. The township supervisor, township clerk, township treasurer, justices of the peace, and constables in each charter township shall have and perform the duties and functions required of such officers by state law. The township board may, by resolution, upon the recommendation of the supervisor, or of the township superintendent if one shall be appointed, create such additional officers as may be necessary to administer the affairs of the township government, or may combine any administrative offices in any manner not inconsistent with state law, and prescribe the duties thereof. No creation of any additional administrative office or combination thereof shall abolish the offices of township clerk or township treasurer nor diminish any of the duties or responsibilities of those offices which are prescribed by state law.

HISTORY: CL 1948, 42.9.

42.10 Township superintendent; appointment; delegation of powers and duties of township supervisor.

Sec. 10. The township board in each charter township shall have power to appoint a township superintendent and may delegate to him any or all of the following functions and duties which functions and duties, unless so delegated, shall be exercised by the supervisor:

(a) To see that all laws and township ordinances are enforced;

(b) To manage and supervise all public improvements, works, and undertakings of the township;

(c) To have charge of the construction, repair, maintenance, lighting and cleaning of streets, sidewalks, bridges, pavements, sewers, and of all the public buildings or other property belonging to the township;

(d) To manage and supervise the operation of all township utilities;

(e) To be responsible for the preservation of property, tools, and appliances of the township;

(f) To see that all terms and conditions imposed in favor of the township or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;

(g) To attend all meetings of the township board, with the right to take part in discussions, but without the right to vote;

(h) To be a member, ex officio, of all committees of the township board;

(i) To prepare and administer the annual budget under policies formulated by the township board and keep the said board fully advised at all times as to the financial condition and needs of the township;

(j) To recommend to the township board for adoption such measures as he may deem necessary or expedient;

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(k) To be responsible to the township board for the efficient administration of all departments of the township government;

(l) To act as the purchasing agent for the township or, under his responsibility, delegate such duties to some other officer or employee;

(m) To conduct all sales of personal property which the township board may authorize to be sold;

(n) To assume all the duties and responsibilities as personnel director of all township employees or delegate such duties to some other officer or employee;

(o) To perform such other duties as may be prescribed by this act or required of him by ordinance or by direction of the township board, or which are not assigned to some other official in conformity with the provisions of this act.

HISTORY: CL 1948, 42.10;—Am. 1949, p. 69, Act 70, Eff. Sep. 23.

42.11 Township superintendent; tenure, qualifications.

Sec. 11. Such township superintendent shall hold office at the pleasure of the township board and shall be selected by the said board on the basis of training and ability alone, without regard to his political or religious preference and need not be a resident of the township at the time of his appointment but shall become a resident thereof within 90 days after his appointment and shall so remain throughout his tenure of office.

HISTORY: CL 1948, 42.11.

42.11a Township assessors; appointment, powers and duties, compensation.

Sec. 11a. In any charter township, in addition to the supervisor, the charter township board may provide for the appointment of assessors, not exceeding 2, for such charter township. Such assessors, when appointed, shall be clothed with all the powers and duties of supervisors in the assessment of property for taxation within such township and shall receive for their services such compensation as may be allowed by the charter township board. Whenever assessors shall be appointed, as in this act provided, the supervisor shall be the chief assessing officer and such assessors shall in all cases be subordinate to such supervisor. Upon completion of the assessment and the making of the rolls, such rolls shall be deposited with the supervisor.

HISTORY: Add. 1962, p. 138, Act 145, Eff. Mar. 28, 1963.

42.12 Township police force; establishment; township marshal, appointment; rules; policemen, powers and duties.

Sec. 12. The township board in each charter township may provide for and establish a police force and authorize the supervisor, or the township superintendent if one has been appointed, to appoint, subject to the approval of the said board, a township marshal and such other policemen and watchmen as may be required to protect property and preserve the public welfare and safety in that portion of the township not included within the corporate limits of any village or villages located wholly or in part within the township. No police officer of any such village shall be ineligible for appointment as a member of the township police force, except that no village police officer shall serve as township marshal. The township board shall make all necessary rules for the government of the township police force and its members and shall prescribe the powers and duties of policemen and watchmen, and may invest them with such authority as may be necessary for the preservation of quiet and order and the protection of persons and property within that part of the township not located within the corporate limits of any village.

HISTORY: CL 1948, 42.12.

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42.13 Township fire department; establishment; township fire chief, appointment; rules and regulations; refusal to aid at fire, penalty.

Sec. 13. The township board in each charter township shall have power to provide for and establish and maintain a fire department and authorize the supervisor, or the township superintendent if one has been appointed, to appoint, subject to the approval of the said board, a township fire chief and such other firemen as may be required to protect persons and property from the hazards of fire in that part of the township located outside the corporate limits of villages. The township board shall make and establish rules and regulations for the government of the department, the employes, firemen, and officers thereof; and for the care and management of the buildings, engines, apparatus, and equipment pertaining thereto. The township fire chief, or any officer acting as such, may command and require any person present at a fire to aid in the extinguishment thereof, and to assist in the protection of property thereat. If any person shall wilfully disobey any such requirement or other lawful order of any such officer, he shall be deemed guilty of a misdemeanor.

HISTORY: CL 1948, 42.13.

42.14 Charter township; power to acquire property; approval of electors.

Sec. 14. Each charter township shall have power to acquire property for public purposes by purchase, gift, condemnation, lease, construction, or otherwise, and to maintain and operate public buildings, parks, and facilities needed in the performance of the powers and functions, expressed and implied, granted, possessed, and required of them by this act, or any other statute of the state of Michigan relating to townships and may sell and convey or lease any such property or part thereof which is not needed for public purposes: Provided, That no taxes shall be levied to acquire any such property, public building, park, or facility, unless such levy shall be approved by a majority of the electors of the township voting thereon at any regular or special township election.

HISTORY: CL 1948, 42.14;—Am. 1949, p. 69, Act 70, Eff. Sep. 23.

42.14a Public improvements; issuance of bonds; net bonded indebtedness, computation, limitation; provisions applicable.

Sec. 14a. The township may borrow money and issue bonds on the credit of the township for the purpose of constructing or otherwise acquiring any public improvement which the township is authorized to construct or otherwise acquire by any of the provisions of this act or any other act relating to public improvements by townships, upon approval thereof by a majority of the electors voting thereon at any general or special election: Provided, however, That the net bonded indebtedness of the township incurred for all public purposes shall at no time exceed 10 per cent of the assessed value of all real and personal property in the township: Provided further, That in computing net bonded indebtedness for the purposes hereof, bonds issued in anticipation of the collection of special assessments even though they are also general obligations of the township shall not be included, and the resources of the sinking fund or debt retirement fund pledged for retirement of any outstanding bonds shall also be deducted from the amount of the bonded indebtedness: Provided further, That such bonds shall be issued subject to the provisions of Act No. 202 of the Public Acts of Michigan 1943, as amended.

HISTORY: Add. 1953, p. 251, Act 188, Eff. Oct. 2.

42.15 Ordinances to provide for peace, health and safety; licenses, granting, fees, bonds.

Sec. 15. The township board of any charter township may enact such ordinances as may be deemed necessary to provide for the public peace and health and for the safety of persons and property therein, and may by ordinance prescribe the terms and

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conditions upon which licenses may be granted, suspended, or revoked; and may in such ordinances require and exact payment of such reasonable sums for any licenses as it may deem proper. The persons receiving the licenses shall, before the issuing thereof, execute a bond to the township when required by any ordinance in such sum and with such securities as prescribed by such ordinance, conditioned for the faithful observance of this act, and the ordinance under which the license is granted.

HISTORY: CL 1948, 42.15;—Am. 1949, p. 69, Act 70, Eff. Sep. 23.

42.16 Streets, alleys, bridges and public places; regulation of use; record of ordinances, filing.

Sec. 16. Except insofar as limited by state law and the provisions of this act, the township board shall have power to establish and vacate and use, and to control and regulate the use of the streets, alleys, bridges, and public places of the township and the space above and beneath them, such regulation of its streets, alleys, bridges, and public places shall be deemed a matter of local concern. Nothing in this act shall be construed to repeal or nullify the provisions of Act No. 221 of the Public Acts of 1937. Any ordinance concerning the operation of motor vehicles on any road, street or highway shall not become effective until 30 days after approval by the commissioner of the Michigan state police. A record of all ordinances so approved by the commissioner shall be kept on file in his office. Such power shall include, but not be limited to, the proper policing and supervision thereof; to the licensing and regulation, or the prohibition of the placing of signs, awnings, awning posts, and other things which are of such nature as to impede or make dangerous the use of sidewalks or streets, upon or over the sidewalks or streets of the township; and the licensing and regulation of the construction and use of openings in the sidewalks or streets, and of all vaults, structures, and excavations under the same.

HISTORY: CL 1948, 42.16;—Am. 1949, p. 70, Act 70, Eff. Sep. 23.

42.17 Construction of buildings; powers and liabilities of charter townships as to public health and safety.

Sec. 17. Charter townships shall have and possess and may exercise the same powers and shall be subject to the same liabilities as are possessed by cities to regulate the construction of buildings for the preservation of public health and safety, to regulate the conduct of business, and to provide for the public peace and health and for the safety of persons and property.

HISTORY: CL 1948, 42.17.

42.18 Joint action with other governmental unit or agency.

Sec. 18. Each charter township may join with any governmental unit or agency, or with any number or combination thereof, by contract or otherwise as may be permitted by law, to perform jointly, or by one or more, for or on behalf of the other or others, any power or duty which is permitted to be so performed by law or which is possessed or imposed upon each such governmental unit or agency.

HISTORY: CL 1948, 42.18.

42.19 Ordinances, resolutions, rules and regulations of former township; continuation.

Sec. 19. All ordinances, resolutions, rules, and regulations of a charter township which were in effect at the time such township became a charter township and which are not inconsistent with the laws of the state applicable to charter townships shall continue in full force as the ordinances, resolutions, rules, and regulations of the charter township until repealed or amended by action of the proper authorities.

HISTORY: CL 1948, 42.19;—Am. 1949, p. 70, Act 70, Eff. Sep. 23.

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42.20 Legislation to be ordinance or resolution; ordinances, form, passage, amendment, record, authentication, compilation.

Sec. 20. All legislation of charter townships shall be by ordinance or by resolution. The term "resolution" shall mean the official action of the township board in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this act or by state or federal law and to matters pertaining to the internal affairs or concerns of the township government. All other acts of the township board, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances shall be, "The charter township of ..... ordains:". Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the township board at the same meeting at which it is introduced, nor until it has been published in the form in which it was introduced at least once. No ordinance shall be revised, altered, or amended by reference to its title only, but the section or sections of the ordinance revised, altered, or amended shall be re-enacted and published at length, and all ordinances, when enacted, shall be immediately recorded by the township clerk in a book to be called "The ordinance book"; and it shall be the duty of the supervisor and township clerk to authenticate such record by their official signatures thereon. The ordinances of each charter township shall be compiled and published in loose leaf or booklet form not less than once in every 10 year period.

HISTORY: CL 1948, 42.20;—Am. 1949, p. 70, Act 70, Eff. Sep. 23.

42.21 Ordinances; violations, penalties, maximum; disposition of fines.

Sec. 21. The township board shall provide in each ordinance for the punishment of those who violate its provisions. No punishment for the violation of any township ordinance shall exceed a fine of $100.00 or imprisonment for 90 days, or both in the discretion of the court. All fines collected for the violation of the ordinances of a charter township shall belong to such township and shall be paid into the township treasury on or before the first Monday of the month next following receipt thereof by any justice of the peace or other judicial officer.

HISTORY: CL 1948, 42.21;—Am. 1949, p. 70, Act 70, Eff. Sep. 23.

42.22 Ordinances; publication, effective date.

Sec. 22. Each ordinance passed by a township board shall be published at least once and all such ordinances shall become effective immediately upon the publication thereof, unless a date upon which such ordinance shall become effective, which is subsequent to the date of the publication thereof, is specifically provided in the ordinance itself. The publication of any ordinance in full after its final passage as a part of the published proceedings of the township board shall constitute publication of such ordinance as required herein.

HISTORY: CL 1948, 42.22;—Am. 1949, p. 71, Act 70, Eff. Sep. 23.

42.23 State law or standard code; adoption as township ordinance by citation; publication, distribution, charge.

Sec. 23. The township board may adopt any provision of state law or any detailed technical regulations as a township ordinance or code by citation of such provision of state law or by reference to any recognized standard code, official or unofficial: Provided, That any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same as an ordinance of the township. Where any recognized official or unofficial standard code is so adopted, it may be published by providing to the public not less than 50 copies in book or booklet form, available for public distribution at a reasonable charge, and any amendment

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to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

HISTORY: CL 1948, 42.23;—Am. 1949, p. 71, Act 70, Eff. Sep. 23.

42.24 Budget proposal; preparation by township supervisor from estimates of township officers; due date.

Sec. 24. On or before the first day of August in each year, each township officer shall submit to the supervisor, or to the township superintendent if such officer has been appointed, an itemized estimate of the anticipated expenditures of the township for the next fiscal year for the township activities under his charge. The supervisor, or township superintendent, as the case may be, shall prepare a complete itemized budget proposal for the next fiscal year and shall submit it to the township board on or before the first day of September.

HISTORY: CL 1948, 42.24.

42.25 Budget proposal; contents.

Sec. 25. The budget proposal shall present a complete financial plan for the ensuing fiscal year, which shall commence on January first of each year and end on the following December thirty-first. It shall include at least the following information:

(a) Detailed estimates of all proposed expenditures for each function and office of the township, showing the expenditures for corresponding items for the current and last preceding fiscal years, with reasons for increases and decreases recommended, as compared with appropriations for the current year;

(b) Statements of the bonded and other indebtedness of the township, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

(c) Detailed estimates of all anticipated income of the township from sources other than taxes and borrowing, with a comparative statement of the amounts received by the township from each of the same or similar sources for the last preceding and current fiscal years;

(d) A statement of the estimated balance or deficit, as the case may be, from the end of the current fiscal year;

(e) An estimate of the amount of money to be raised by taxation and from delinquent taxes and the amount to be raised from bond issues which, together with income from other sources, will be necessary to meet the proposed expenditures;

(f) Such other supporting schedules as the township board may deem necessary.

HISTORY: CL 1948, 42.25.

42.26 Budget; notice, public hearing, prior public inspection.

Sec. 26. A public hearing on the budget shall be held before its final adoption, at such time and place as the township board shall direct, and notice of such public hearing shall be published at least 1 week in advance by the township clerk. A copy of the proposed budget shall be on file and available to the public for inspection during office hours at the office of the township clerk for a period of not less than 1 week prior to such public hearing.

HISTORY: CL 1948, 42.26.

42.27 Budget; adoption by township board; tax levy, limitation, increase; separate appropriation for fire and police departments; tax collection by township treasurer; interim budget.

Sec. 27. Not later than the 1st day of November in each year, the township board shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution, make an appropriation of the money needed for township purposes during the ensuing fiscal year of the township and provide for a levy of the amount necessary to

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be raised by taxes upon real and personal property for the municipal purposes of the township, which levy shall not exceed 1/2 of 1 per cent of the assessed valuation of all real and personal property subject to taxation in the township: Provided, That the electors of each charter township shall have power to increase such tax levy limitation to not to exceed a total of 1 per cent of the assessed valuation of all real and personal property in the township for a period of not to exceed 20 years at any one time: And provided further, That in each township in which there shall be located 1 or more villages which maintain either a fire department or a police department which is not limited solely to the village marshal, or both a fire department and such a police department, the expense of any township fire department or police department, or both of said departments, in case both are maintained by the township, shall be appropriated separately from the other expenses of the township and no tax levy therefor shall be spread upon the township assessment roll against any property, either real or personal, located in any such village. The adoption of such resolution shall constitute complete and final authority for the township supervisor to spread the levy or levies therein provided upon the tax roll for the current year, according and in proportion to the valuations entered by the board of review in the assessment roll of the township and to include the amount of each levy in his warrant to the township treasurer. The township treasurer shall collect and return the same in the manner provided by the Michigan general property tax law. Within 60 days after the incorporation of any township as a charter township under this act, the township board shall adopt an interim budget to defray the expenses of such township until the commencement of the next fiscal year as in this act established and shall, in the adopting resolution, make an appropriation of the money needed for such purposes from the funds and assets of the township available for such purposes.

HISTORY: CL 1948, 42.27;—Am. 1949, p. 71, Act 70, Eff. Sep. 23;—Am. 1953, p. 251, Act 188, Eff. Oct. 2.

42.28 Budget or supplemental appropriations; expenditure, restrictions; unencumbered balances, transfer, reappropriation.

Sec. 28. No money shall be drawn from the treasury of the township nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriation, or pursuant to any supplemental appropriation which may be made from surplus received. The township board may transfer any unencumbered appropriation balance, or any portion thereof, from 1 fund or agency to another. The balance in any appropriation, which has not been encumbered, at the end of the fiscal year shall revert to the general fund and be reappropriated during the next fiscal year.

HISTORY: CL 1948, 42.28;—Am. 1967, p. 54, Act 34, Imd. Eff. Jun. 6.

42.29 Quarterly statement of estimated and actual income and expenses; submission by supervisor to township board; reduction of appropriations, exceptions.

Sec. 29. At the beginning of each quarterly period during the fiscal year, and more often if required by the township board, the supervisor or the township superintendent, as the case may be, shall submit to the township board data showing the relation between the estimated and actual income and expenses to date; and if it shall appear that the income is less than anticipated, the township board may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income.

HISTORY: CL 1948, 42.29.

42.30 Annual audit of accounts; results, filing, public inspection; annual report of township business.

Sec. 30. An independent audit shall be made of all accounts of the township government at least annually and more frequently if deemed necessary by the township

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board. Such audit shall be made by qualified accountants experienced in municipal accounting. The results of such audit shall be on file in the office of the township clerk and available to the public for inspection. An annual report of the township business shall be made available to the public by the township board in such form as will disclose pertinent facts concerning the activities and finances of the township government.

HISTORY: CL 1948, 42.30.

42.31 Local or public improvements; determination of necessity by township board; special assessments, provisions governing; issuance of bonds.

Sec. 31. Each charter township shall have the power to make local or public improvements by the paving of streets which are not a part of the county highway system, the laying of curbs and gutters, the installing of elevated structures for foot travel over highways within the township with the written approval of the state highway commissioner if such highways are state highways or with the written approval of the board of county road commissioners if such highways are county roads, the laying of sidewalks, the installation of garbage disposal systems, the paving of streets which are a part of the county highway system with the consent of and according to specifications of the county road commission, the laying of storm and sanitary sewers, the installation of water systems, and the installation of street and highway lighting systems, and shall have the further power to maintain or operate the same. The township board of each such township shall have the power to determine the necessity of any such local or public improvement and to determine that the whole or any part of the expense thereof shall be defrayed by special assessment upon lands abutting upon and adjacent to or otherwise benefited by the improvement, such assessment to be made in all respects as provided for the making of special assessments under either the provisions of Act No. 3 of the Public Acts of 1895, as amended, being sections 61.1 to 75.12 of the Compiled Laws of 1948, or the provisions of Act No. 188 of the Public Acts of 1954, as amended, being sections 41.721 to 41.737 of the Compiled Laws of 1948, except that the township board, township clerk, township treasurer, and a township board of assessors created by the township board for each local or public improvement, shall perform the duties and functions required by Act No. 3 of the Public Acts of 1895, as amended, of village councils, clerks, treasurers, and boards of assessors, respectively. Each such township shall have power to borrow money and to issue bonds therefor in anticipation of the payment of special assessments, which may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the township.

HISTORY: CL 1948, 42.31;—Am. 1960, p. 12, Act 13, Imd. Eff. Apr. 13;—Am. 1964, p. 38, Act 34, Imd. Eff. May 4.

42.32 Succession to properties of former township; suits or prosecutions, debts and liabilities, uncollected taxes and assessments.

Sec. 32. All charter townships created under the provisions of this act shall succeed to and be vested with all the property, real and personal, moneys, rights, credits and effects, and of all records, files, books and papers belonging to such township as it formerly existed, and no rights or liabilities of the township which existed at the time it became a charter township, and no suit or prosecution of any kind commenced prior to and continuing at such time, shall be, in any manner, affected by such change, but the same shall continue, stand, or progress as if no such change had been made, and all debts and liabilities of the township and all taxes and assessments levied and uncollected at the time of such change shall stand until discharged or collected the same as if such change had not been made.

HISTORY: CL 1948, 42.32.

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42.33 Liberal construction of act.

Sec. 33. The provisions of this act shall be liberally construed in the interest of the public health and welfare and the safety of persons and property within such townships as shall incorporate under the provisions of this act.

HISTORY: CL 1948, 42.33.

42.34 Incorporation as or annexation to city or village.

Sec. 34. This act shall not prevent any part of a charter township from being incorporated as a city or village or from being annexed to a city or village in accordance with provisions of law for incorporation of, or annexation to any city or village.

HISTORY: CL 1948, 42.34.

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CHAPTER 43. FENCES AND FENCE VIEWERS

FENCES AND FENCE VIEWERS

Ch. 18, R.S. 1846

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R.S. 1846, Ch. 18.

FENCES AND FENCE VIEWERS

43.1 Legal and sufficient fences; requirements.

Sec. 1. All fences 4 ½ feet high and in good repair, consisting of rails, timber, boards, wire, or stone walls or any combination thereof, and all brooks, rivers, ponds, creeks, ditches and hedges, or other things which shall be considered equivalent thereto, in the judgment of the fence viewers, within whose jurisdiction the same may be, shall be deemed legal and sufficient fences.

HISTORY: CL 1857, 605;—CL 1871, 768;—How. 796;—CL 1897, 2415;—Am. 1903, p. 123, Act 100, Eff. Sept. 17;—CL 1915, 2206;—CL 1929, 1064;—CL 1948, 43.1.

43.2 Partition fences; maintenance by occupants of adjoining lands; conservation commission.

Sec. 2. The respective occupants of lands enclosed with fences shall keep up and maintain partition fences between their own and the next adjoining enclosure, in equal shares, so long as 1 party continues to improve the same: Provided, That the occupants of private ways and the occupants of the next adjoining enclosed lands shall keep up and maintain partition fences between such ways and such next adjoining lands, in equal shares, so long as such ways are used and such lands are improved: Provided further, That the conservation commission shall keep up and maintain partition fences between lands under its jurisdiction south of the counties of Oceana, Newaygo, Mecosta, Isabella, Midland and Arenac and the next adjoining enclosure, in equal shares, so long as the owner or occupant of said adjoining enclosure maintains and continues to improve the same.

HISTORY: CL 1857, 606;—CL 1871, 769;—How. 797;—CL 1897, 2416;—Am. 1907, p. 42, Act 39, Eff. Sept. 28;—CL 1915, 2207;—CL 1929, 1065;—Am. 1943, p. 31, Act 32, Eff. July 30;—CL 1948, 43.2.

43.3 Partition fences; neglect; determination of fence viewers, remedy.

Sec. 3. In case any party shall neglect to repair or rebuild any partition fence, which of right he ought to maintain, the aggrieved party may complain to 2 or more fence

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viewers of the township, who, after due notice to each party, shall proceed to examine the same; and if they shall determine that the fence is insufficient, they shall signify the same in writing to the delinquent occupant of the land, and direct him to repair or rebuild the same within such time as they shall judge reasonable, and if such fence shall not be repaired or rebuilt accordingly, it shall be lawful for the complainant to repair or rebuild the same.

HISTORY: CL 1857, 607;—CL 1871, 770;—How. 798;—CL 1897, 2417;—CL 1915, 2208;—CL 1929, 1066;—CL 1948, 43.3.

43.4 Partition fences; cost of repair, failure to pay; assessment.

Sec. 4. When any deficient fence built up or repaired by any complainant, as provided in the preceding section, shall be adjudged sufficient by 2 or more of the fence viewers and the value of such repairing or building up, together with their fees, shall be ascertained by a certificate under their hands, the complainant shall have a right to demand either of the occupant or owner of the land where the fence was deficient, the sum so ascertained. And in case of neglect or refusal to pay the sum so due on or before the first day of the next succeeding October after demand thereof is made, the sum so due shall become a lien on the said land and the fence viewers aforesaid shall report the same to the supervisor of the township, on or before the first day of November next thereafter, who shall cause the same to be spread upon the assessment roll, in a separate column for that purpose, opposite the description of the land owned or occupied by the person or persons neglecting to pay the same, the said tax to be collected in the same manner that other taxes are collected and paid over to the complainant upon the order of the township board.

HISTORY: CL 1857, 608;—CL 1871, 771;—How. 799;—Am. 1887, p. 159, Act 146, Eff. Sept. 28;—Am. 1889, p. 14, Act 14, Imd. Eff. March 6;—CL 1897, 2418;—CL 1915, 2209;—CL 1929, 1067;—CL 1948, 43.4.

43.5 Partition fences; controversy over maintenance obligations; determination of fence viewers.

Sec. 5. When any controversy shall arise about the rights of the respective occupants, in partition fences, or their obligation to maintain the same, either party may apply to 2 or more fence viewers of the township where the lands lie, who after due notice to each party, may in writing assign to each his share thereof, and direct the time within which each party shall erect or repair his share of the fence in the manner before provided; which assignment, being recorded in the township clerk's office shall be binding upon the parties, and upon all the succeeding occupants of the lands; and they shall be obliged always thereafter to maintain their respective portions of said fence.

HISTORY: CL 1857, 609;—CL 1871, 772;—How. 800;—CL 1897, 2419;—CL 1915, 2210;—CL 1929, 1068;—CL 1948, 43.5.

43.6 Partition fences; neglect of assigned portion, remedy.

Sec. 6. In case any party shall refuse or neglect to erect and maintain the part of any fence assigned to him by the fence viewers, the same may be erected and maintained by the aggrieved party in the manner before provided, and he shall be entitled to the value thereof ascertained in the manner aforesaid, and to be recovered in like manner.

HISTORY: CL 1857, 610;—CL 1871, 773;—How. 801;—Am. 1887, p. 159, Act 146, Eff. Sept. 28;—CL 1897, 2420;—CL 1915, 2211;—CL 1929, 1069;—CL 1948, 43.6.

43.7 Partition fences; controversy, determination of fence viewers, proportionate reimbursement.

Sec. 7. When in any controversy that may arise between occupants of adjoining lands as to their respective rights in any partition fence it shall appear to the fence viewers that either of the occupants had, before any complaint made to them, voluntarily erected the whole fence or more than his just share of the same, or otherwise become proprietor thereof, the other occupant shall pay for so much as may be assigned

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to him to repair or maintain, the value of which shall be ascertained and collected in the manner provided in this chapter.

HISTORY: CL 1857, 611;—CL 1871, 774;—How. 802;—Am. 1887, p. 159, Act 146, Eff. Sept. 28;—CL 1897, 2421;—CL 1915, 2212;—CL 1929, 1070;—CL 1948, 43.7.

43.8 Partition fences; repair.

Sec. 8. All partition fences shall be kept in good repair throughout the year, unless the occupants of the lands on both sides shall otherwise mutually agree.

HISTORY: CL 1857, 612;—CL 1871, 775;—How. 803;—CL 1897, 2422;—CL 1915, 2213;—CL 1929, 1071;—CL 1948, 43.8.

43.9 Boundary in stream; controversy over erection of fence, duties of fence viewers.

Sec. 9. When lands of different persons, which are required to be fenced, are bounded upon, or divided by any river, brook, pond or creek, which of itself, in the judgment of the fence viewers, is not a sufficient fence, and it is in their opinion impracticable, without unreasonable expense, for the partition fence to be made in such waters, in the place where the true boundary line is, if in such case the occupant of the land on the 1 side, shall refuse or neglect to join with the occupant of the land on the other side in making a partition fence on the 1 side or the other, or if such persons shall disagree respecting the same, then 2 or more fence viewers of the township wherein such lands lie, on application to them made, shall forthwith proceed to view such river, brook, pond or creek.

HISTORY: CL 1857, 613;—CL 1871, 776;—How. 804;—CL 1897, 2423;—CL 1915, 2214;—CL 1929, 1072;—CL 1948, 43.9.

43.10 Boundary in stream; determination of fence viewers; neglect, remedy.

Sec. 10. If such fence viewers shall determine such river, brook, pond or creek in the preceding section mentioned, not to answer the purpose of a sufficient fence, and that it is impracticable without unreasonable expense, to build a fence on the true boundary line, they shall, after giving notice to the parties, determine how, or on which side thereof the fence shall be set up and maintained, or whether partly on one side and partly on the other side, as to them shall appear just, and shall reduce such determination to writing, and sign the same; and if either party shall refuse or neglect to make and maintain his part of the fence according to the determination of the fence viewers, the same may be made and maintained by the other party as before provided in this chapter, and the delinquent party shall be subject to the same charges and costs, to be recovered in like manner.

HISTORY: CL 1857, 614;—CL 1871, 777;—How. 805;—CL 1897, 2424;—CL 1915, 2215;—CL 1929, 1073;—CL 1948, 43.10.

43.11 Partition of severalty lands occupied in common; division and assignment by fence viewers.

Sec. 11. When any lands, belonging to different persons in severalty, shall have been occupied in common without a partition fence between them, and 1 of the occupants shall be desirous to occupy his part in severalty, and the other occupant shall refuse or neglect, on demand, to divide with him the line where the fence ought to be built, or to build a sufficient fence on his part of the line when divided, the party desiring it may have the same divided and assigned by 2 or more fence viewers of the same township, in the manner provided in this chapter.

HISTORY: CL 1857, 615;—CL 1871, 778;—How. 806;—CL 1897, 2425;—CL 1915, 2216;—CL 1929, 1074;—CL 1948, 43.11.

43.12 Partition of severalty lands occupied in common; erection of fence, time limit; neglect, remedy.

Sec. 12. Upon the division and assignment as provided in the preceding section, the fence viewers may, in writing under their hands, assign a reasonable time for making the fence, having regard to the season of the year, and if either party shall not make his part of the fence within the time so assigned, the other party may, after having

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completed his own part of the fence, make the part of the other and recover the ascertained expenses thereof, together with the fees of the fence viewers, in the manner provided in this chapter.

HISTORY: CL 1857, 616;—CL 1871, 779;—How. 807;—Am. 1887, p. 159, Act 146, Eff. Sept. 28;—CL 1897, 2426;—CL 1915, 2217;—CL 1929, 1075;—CL 1948, 43.12.

43.13 Partition fences; removal.

Sec. 13. When one party shall cease to improve his land, or shall open his enclosure, he shall not take away any part of the partition fence belonging to him and adjoining the next enclosure, if the owner or occupant of such adjoining enclosure will, within 2 months after the same shall be ascertained, pay therefor such sum as 2 or more fence viewers shall, in writing, under their hands determine to be the value of such partition fence belonging to such party.

HISTORY: CL 1857, 617;—CL 1871, 780;—How. 808;—CL 1897, 2427;—CL 1915, 2218;—CL 1929, 1076;—CL 1948, 43.13.

43.14 Partition fences; enclosure of unenclosed lands; apportionment of costs, failure to pay, assessment.

Sec. 14. When any unenclosed improved farm land shall be afterwards enclosed, the occupant or owner thereof shall pay for 1/2 of each partition fence standing upon the line between his land and the enclosure of any other occupant or owner, and the occupant or owner of the adjoining lands whether improved or unimproved shall pay for 1/2 of such partition fence, and the value thereof shall be ascertained by 2 or more fence viewers of the township, in writing under their hands, in case the parties do not agree, and if such occupant or owner shall neglect or refuse for 30 days after the value has been so ascertained and demand made to pay for 1/2 of such partition fence, the same shall be assessed and collected, together with the costs of ascertaining the same as provided in this chapter.

HISTORY: CL 1857, 618;—CL 1871, 781;—How. 809;—Am. 1887, p. 160, Act 146, Eff. Sept. 28;—CL 1897, 2428;—CL 1915, 2219;—CL 1929, 1077;—CL 1948, 43.14;—Am. 1952, p. 153, Act 136, Eff. Sep. 18.

43.15 Partition fence on township line; fence viewers.

Sec. 15. In all cases where the line, upon which a partition fence is to be made, or to be divided, is the boundary line between townships, or partly in 1 township and partly in another, a fence viewer shall be taken from each township.

HISTORY: CL 1857, 619;—CL 1871, 782;—How. 810;—CL 1897, 2429;—CL 1915, 2220;—CL 1929, 1078;—CL 1948, 43.15.

43.15a Partition fence on boundary of township and city; fence viewers, appointment, report; failure to pay, assessment.

Sec. 15a. If the fence proposed to be erected or the fence to be maintained is on the boundary between a city and a township, 1 fence viewer shall be appointed by the governing body of the city and 1 by the township supervisor. The fence viewers shall proceed as prescribed in this chapter, and if the owner or owners determined to be liable shall refuse to pay the amount determined by the fence viewers to be paid, the report of the fence viewers shall be filed with the clerk of the municipality or municipalities in which the lands of such liable owners shall lie, and the amount for which said lands are found liable shall be assessed as a special tax against said lands on the next tax roll and collected in all respects as are other taxes under the general tax laws.

HISTORY: Add. 1949, p. 34, Act 41, Eff. Sep. 23.

43.16 Partition fence across water; neglect, remedy.

Sec. 16. Where a partition fence running into the water is necessary to be made, the same shall be done in equal shares, unless otherwise agreed by the parties, and in case either party shall refuse or neglect to make or maintain the share belonging to him, similar proceedings shall be had, as in case of other fences, and with the like effect.

HISTORY: CL 1857, 620;—CL 1871, 783;—How. 811;—CL 1897, 2430;—CL 1915, 2221;—CL 1929, 1079;—CL 1948, 43.16.

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43.17 Partition fence between unimproved lands.

Sec. 17. In all cases where the line upon which a partition fence is to be built between unimproved lands, has been divided by the fence viewers, or by agreement in writing between the owners of such lands, recorded in the office of the clerk of the township, or of 1 of the townships where such lands lie, the several owners thereof, and their heirs and assigns forever, shall erect and support said fences, agreeably to such division.

HISTORY: CL 1857, 621;—CL 1871, 784;—How. 812;—CL 1897, 2431;—CL 1915, 2222;—CL 1929, 1080;—CL 1948, 43.17.

43.18 Partition fence between unimproved lands; intention not to improve.

Sec. 18. If any person shall determine not to improve any part of his lands adjoining any partition fence that may have been divided according to the provisions of this chapter, and shall give 6 months' notice of such determination to all the adjoining occupants of lands, he shall not be required to keep up or support any part of such fence during the time his lands shall lie open and unimproved: Provided, That this section shall not apply where the land owned by the adjoining occupants is improved farm land.

HISTORY: CL 1857, 622;—CL 1871, 785;—How. 813;—CL 1897, 2432;—CL 1915, 2223;—CL 1929, 1081;—CL 1948, 43.18;—Am. 1952, p. 153, Act 136, Eff. Sep. 18.

FENCE VIEWERS.

43.19 Fence viewers; township trustees.

Sec. 19. Two township trustees in each township shall be designated by the township board as fence viewers in their respective townships.

HISTORY: CL 1857, 623;—CL 1871, 786;—How. 814;—Am. 1889, p. 32, Act 30, Imd. Eff. March 27;—CL 1897, 2433;—Am. 1909, p. 98, Act 61, Eff. Sept. 1;—CL 1915, 2224;—CL 1929, 1082;—Am. 1947, p. 185, Act 136, Imd. Eff. May 28;—CL 1948, 43.19;—Am. 1968, p. 12, Act 4, Eff. Jan. 1, 1969.

43.20 Fence viewers; neglect of duty, penalty.

Sec. 20. Any fence viewer, who shall, when requested, unreasonably neglect to view any fence, or to perform any other duty required of him in this chapter, shall forfeit the sum of 5 dollars, and shall also be liable to the party injured for all damages consequent upon such neglect.

HISTORY: CL 1857, 624;—CL 1871, 787;—How. 815;—CL 1897, 2434;—CL 1915, 2225;—CL 1929, 1083;—CL 1948, 43.20.

43.21 Fence viewers; compensation, recovery.

Sec. 21. Each fence viewer shall be paid by the person employing him, at the rate of $5.00 a day for the time he shall be so employed; and if such person shall neglect to pay the same within 30 days after the service shall have been performed, each fence viewer having performed any such service may recover in an action of assumpsit double the amount of such fees.

HISTORY: CL 1857, 625;—CL 1871, 788;—How. 816;—CL 1897, 2435;—Am. 1909, p. 98, Act 61, Eff. Sept. 1;—CL 1915, 2226;—CL 1929, 1084;—Am. 1947, p. 185, Act 136, Imd. Eff. May 28;—CL 1948, 43.21.

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CHAPTER 45. COUNTIES

COUNTIES

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R.S. 1846, Ch. 13.

COUNTIES.

45.1 Counties; boundaries.

Sec. 1. The boundaries of the several counties in this state, shall remain as now established, unless the same shall hereafter be changed by the legislature.

HISTORY: CL 1857, 300;—CL 1871, 431;—How. 437;—CL 1897, 2439;—CL 1915, 2241;—CL 1929, 1099;—CL 1948, 45.1.

As to a county or other municipal organization long organized and acquiesced in, see notes to Compilers' § 41.2.

45.2 Counties; powers, duties, privileges and immunities.

Sec. 2. All the rights, powers, duties, privileges and immunities of the several counties, shall remain as now established, until the same shall be altered by law.

HISTORY: CL 1857, 301;—CL 1871, 432;—How. 438;—CL 1897, 2440;—CL 1915, 2242;—CL 1929, 1100;—CL 1948, 45.2.

45.3 County; body corporate, purposes.

Sec. 3. Each organized county shall be a body politic and corporate, for the following purposes, that is to say: To sue and be sued, to purchase and hold real and personal estate for the use of the county; to borrow money for the purpose of erecting and repairing county buildings, and for the building of bridges, to make all necessary contracts, and to do all other necessary acts in relation to the property and concerns of the county.

HISTORY: CL 1857, 302;—CL 1871, 433;—How. 439;—CL 1897, 2441;—CL 1915, 2243;—CL 1929, 1101;—CL 1948, 45.3.

CONDEMNATION POWER: See Compilers' §§ 213.21 et seq.

COST-PLUS CONTRACTS: Prohibited in certain cases, see Compilers' §§ 17.41 and 17.42.

45.4 County property.

Sec. 4. All real and personal estate, heretofore conveyed by any form of conveyance to the inhabitants of any county, or to the county treasurer, or the governor of the late territory of Michigan, or to any committee, trustees, or other persons, for the use and benefit of such county, shall be deemed to be the property of such county; and all such conveyances shall have the same force and effect as if they had been made to the inhabitants of such counties by their respective corporate names.

HISTORY: CL 1857, 303;—CL 1871, 434;—How. 440;—CL 1897, 2442;—CL 1915, 2244;—CL 1929, 1102;—CL 1948, 45.4.

45.5 County lands; sale and conveyance.

Sec. 5. The board of supervisors of each county, or other public officers having the charge and management of the county lands, may, by their order of record, appoint 1 or more agents to sell any real estate of their county not donated for any special purpose, and all deeds, made on behalf of such county, by such agents under their proper hands and seals, and duly acknowledged by them, shall be sufficient to convey all the right, title, interest and estate which the county may then have in and to the land so conveyed.

HISTORY: CL 1857, 304;—CL 1871, 435;—How. 441;—CL 1897, 2443;—CL 1915, 2245;—CL 1929, 1103;—CL 1948, 45.5.

COMMON JURISDICTION OF CERTAIN COUNTIES.

45.6 Wayne and Monroe counties; common jurisdiction as to Lake Erie.

Sec. 6. The counties of Wayne and Monroe shall have jurisdiction, in common, of all offences committed on that part of Lake Erie, which lies within the limits of this state; and such offences may be heard and tried in either of said counties in which legal process against the offender shall be first issued, and in like manner and to the same effect as if such offence had been committed in any other part of either of said counties.

HISTORY: CL 1857, 305;—CL 1871, 436;—How. 442;—CL 1897, 2444;—CL 1915, 2246;—CL 1929, 1104;—CL 1948, 45.6.

CRIMINAL JURISDICTION: In general, see Ch. II of Act 175 of 1927, being Compilers' § 762.1 et seq.

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Sec. 7.

HISTORY: CL 1857, 306;—CL 1871, 437;—How. 443;—CL 1897, 2445;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916, (Jud. Act).

This section provided for service of process from counties of Wayne or Monroe upon that portion of Lake Erie which lies within the limits of this State.

45.8 Wayne, Macomb and St. Clair counties; common jurisdiction as to Lake St. Clair.

Sec. 8. The counties of Wayne, Macomb and St. Clair, shall have jurisdiction, in common, of all offences committed on that part of Lake St. Clair which lies within the limits of this state; and such offences may be heard and tried in either of said counties in which legal process against the offender shall be first issued, in like manner, and to the same effect as if the offence had been committed in any part of either of said counties.

HISTORY: CL 1857, 307;—CL 1871, 438;—How. 444;—CL 1897, 2446;—CL 1915, 2247;—CL 1929, 1105;—CL 1948, 45.8.

Sec. 9.

HISTORY: CL 1857, 308;—CL 1871, 439;—How. 445;—CL 1897, 2447;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

This section provided for service of process from county of Wayne, Macomb or St. Clair upon that part of Lake St. Clair which lies within limits of this State.

45.10 Counties bordering on Lake Michigan; common jurisdiction.

Sec. 10. The counties now existing, or which may be hereafter organized, bordering upon the shore of Lake Michigan shall have jurisdiction of all offences committed on that part of Lake Michigan which lies within the limits of this state; and such offences shall be heard and tried in either of the 2 counties nearest the place where the alleged offence was committed.

HISTORY: CL 1857, 309;—CL 1871, 440;—How. 446;—CL 1897, 2448;—Am. 1909, p. 93, Act 57, Eff. Sept. 1;—CL 1915, 2248;—CL 1929, 1106;—CL 1948, 45.10.

Sec. 11.

HISTORY: CL 1857, 310;—CL 1871, 441;—How. 447;—CL 1897, 2449;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

This section provided for service of process from County of Berrien, Van Buren, Allegan, Ottawa, Mackinac, or from any other county hereafter organized upon easterly shore of Lake Michigan, upon that part of Lake Michigan which lies within limits of State.

45.12 Counties bordering on Lake Huron; common jurisdiction.

Sec. 12. The counties now existing, or which may be hereafter organized, bordering upon the shore of Lake Huron shall have jurisdiction of all offences committed on that part of Lake Huron which lies within the limits of this state; and such offences shall be heard and tried in either of the 2 counties nearest the place where the alleged offence was committed.

HISTORY: CL 1857, 311;—CL 1871, 442;—How. 448;—Am. 1885, p. 102, Act 98, Imd. Eff. May 14;—CL 1897, 2450;—CL 1915, 2249;—Am. 1927, p. 254, Act 157, Eff. Sept. 5;—CL 1929, 1107;—CL 1948, 45.12.

Sec. 13.

HISTORY: CL 1857, 312;—CL 1871, 443;—How. 449;—Am. 1885, p. 102, Act 98, Imd. Eff. May 14;—CL 1897, 2451;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

This section provided for service of process from counties of Saginaw, Mackinac, St. Clair, Chippewa, or from any other county hereafter organized upon shore of Lake Huron, upon that part of Lake Huron which lies within limits of this State.

45.14 Counties bordering on Lake Superior; common jurisdiction.

Sec. 14. The county of Chippewa, and such other counties as may hereafter be organized upon the shore of Lake Superior, shall have jurisdiction, in common, of all offences committed on that part of Lake Superior which lies within the limits of this state, and such offences may be heard and tried in either of such counties in which legal process against the offender shall be first issued, in like manner and to the same effect as if the offence had been committed in any part of either of said counties.

HISTORY: CL 1857, 313;—CL 1871, 444;—How. 450;—CL 1897, 2452;—CL 1915, 2250;—CL 1929, 1108;—CL 1948, 45.14.

Sec. 15.

HISTORY: CL 1857, 314;—CL 1871, 444;—How. 451;—CL 1897, 2453;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

This section provided for service of process from county of Chippewa or from such other counties hereafter organized upon shore of Lake Superior, upon that part of Lake Superior which lies within limits of this State.

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COUNTY BUILDINGS.

45.16 County buildings; provision; county jail, approval of plans by state board of corrections and charities.

Sec. 16. Each organized county shall, at its own cost and expense, provide at the county seat thereof a suitable court house, and a suitable and sufficient jail and fireproof offices and all other necessary public buildings, and keep the same in good repair.

That before the plan of any jail which has been duly authorized to be built shall be determined or accepted, or contracted for, such plans shall be submitted to the state board of corrections and charities for its examination and opinion, and such state board shall carefully examine and give the benefit of its study and experience in such matter to the counties submitting such plans and report its opinion to the county clerk of the county so submitting plans, and no contract for the erection of any county jail shall be valid or binding, nor shall any money be paid out of the county treasury for the construction of a jail until such opinion has been duly filed with the county clerk of the county submitting such plans.

HISTORY: CL 1857, 315;—CL 1871, 446;—Am. 1877, p. 50, Act 61, Eff. Aug. 21;—How. 452;—Am. 1897, p. 291, Act 226, Eff. Aug. 30;—CL 1897, 2454;—CL 1915, 2251;—CL 1929, 1109;—CL 1948, 45.16.

BOARD OF CORRECTIONS AND CHARITIES: Abolished; powers and duties transferred to the state department of social welfare, see Compilers' § 400.19.

COUNTY JAILS: See Compilers' § 801.1 et seq.

45.16a County jails; contracts for use; lockup required.

Sec. 16a. In lieu of providing a jail, as required in section 16, each county may contract with other counties for the use of such counties' jails. However, each county shall maintain a lockup which meets the standards established by the department of corrections by rules promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 148, Act 93, Imd. Eff. Jun. 4.

45.17 County prison limits.

Sec. 17. The prison limits of each county, shall extend to all places within the boundaries of the county.

HISTORY: CL 1857, 316;—CL 1871, 447;—How. 453;—CL 1897, 2455;—CL 1915, 2252;—CL 1929, 1110;—CL 1948, 45.17.

45.18 Escape due to insufficiency of county jail; liability of sheriff.

Sec. 18. In case of the escape of any prisoner, by reason of the insufficiency of the jail, whereby the sheriff, or other officer performing the duties of sheriff, shall be made liable to any party at whose suit such prisoner was committed, the county shall reimburse and pay all sums of money recovered of the sheriff or such other officer by such party, by reason of such escape.

HISTORY: CL 1857, 317;—CL 1871, 448;—How. 454;—CL 1897, 2456;—CL 1915, 2253;—CL 1929, 1111;—CL 1948, 45.18.

UNORGANIZED COUNTIES.

45.19 Unorganized counties; annexation, effect.

Sec. 19. Unorganized counties and other districts, annexed, or hereafter to be annexed to any organized county for judicial purposes, shall, for every purpose, be deemed to be within the limits of the county to which they are or may be so annexed.

HISTORY: CL 1857, 318;—CL 1871, 449;—How. 455;—CL 1897, 2457;—CL 1915, 2254;—CL 1929, 1112;—CL 1948, 45.19.

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DIVISION OF COUNTIES ETC.

45.20 Division or alteration of county; lands within county limits.

Sec. 20. When a county seized of lands shall be divided into 2 or more counties, or shall be altered in its limits, by annexing a part of its territory to any other county or counties, each county shall become seized to its own use, of such part of said lands as shall be included within its limits, as settled by such division or alteration.

HISTORY: CL 1857, 319;—CL 1871, 451;—How. 457;—CL 1897, 2459;—CL 1915, 2256;—CL 1929, 1113;—CL 1948, 45.20.

45.21 Division or alteration; apportionment of personalty.

Sec. 21. When a county possessed of, or entitled to money, rights, credits, things in action or personal property, shall be so divided or altered, or when any unorganized county or district annexed to any county for judicial purposes, shall be organized into a separate county, such money, rights, credits, things in action or personal property, shall be adjusted and apportioned, and a settlement thereof made between the counties interested therein, by the supervisors thereof, as to them or a majority of them shall appear to be just and equitable.

HISTORY: CL 1857, 320;—CL 1871, 452;—How. 458;—CL 1897, 2460;—CL 1915, 2257;—CL 1929, 1114;—CL 1948, 45.21.

45.22 Division or alteration; settlement by meeting of county supervisors.

Sec. 22. The supervisors aforesaid shall meet for the purpose of such settlement, at such time as shall be prescribed by the law making such division or alteration; or if no time is prescribed by such law, at such time as the board of supervisors of either of the counties interested shall appoint, at the office of the treasurer of the county retaining the original name of the county so divided or altered.

HISTORY: CL 1857, 321;—CL 1871, 453;—How. 459;—CL 1897, 2461;—CL 1915, 2258;—CL 1929, 1115;—CL 1948, 45.22.

45.23 Division or alteration; apportionment of debts.

Sec. 23. Debts owing by a county so divided or altered, shall be apportioned in the manner prescribed in section 21 of this chapter, and each county shall thereafter be charged therewith, according to such equitable apportionment.

HISTORY: CL 1857, 322;—CL 1871, 454;—How. 460;—CL 1897, 2462;—CL 1915, 2259;—CL 1929, 1116;—CL 1948, 45.23.

45.24 Disagreement over settlement; arbitration commissioners, appointment.

Sec. 24. In case of the division or alteration of a county as aforesaid, if the supervisors cannot agree upon a settlement, as provided in this chapter, the supervisors of either of the counties interested may apply to the circuit court for any adjoining county, for the appointment of 5 judicious men residing within a county not interested, to be commissioners for the purpose of settling and determining the matters aforesaid between such counties; and upon such application, such circuit court shall appoint such commissioners for the purpose aforesaid.

HISTORY: CL 1857, 323;—CL 1871, 455;—How. 461;—CL 1897, 2463;—CL 1915, 2260;—CL 1929, 1117;—CL 1948, 45.24.

45.25 Arbitration commissioners; meeting; determination, finality.

Sec. 25. Such commissioners shall meet at such time as they may appoint, and after being duly sworn faithfully and impartially to perform their duties as such commissioners, shall proceed to examine into the merits of the matters aforesaid, and shall make such determination in relation thereto as to them, or a majority of them shall appear to be just and equitable, which determination shall be entered at length by the clerks of the respective counties so interested as aforesaid, upon the journals of the board of supervisors thereof, and shall be final and conclusive between such parties.

HISTORY: CL 1857, 324;—CL 1871, 456;—How. 462;—CL 1897, 2464;—CL 1915, 2261;—CL 1929, 1118;—CL 1948, 45.25.

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LEGAL PROCEEDINGS IN FAVOR OF, AND AGAINST COUNTIES.

Secs. 26-32.

HISTORY: CL 1857, 325-331;—CL 1871, 457-463;—How. 463-469;—CL 1897, 2465-2471;—Secs. 26-30 Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

These sections with exception of Secs. 26 and 30 were expressly repealed 1915, p. 480, Act 314, Eff. Jan. 1, 1916, (Jud. Act) and Secs. 26 and 30 were re-enacted and superseded by Sec. 14 of Ch. 20, and Sec. 6 of Ch. 66 respectively of the Judicature Act, though not expressly repealed.

45.31 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.

Section provided for annexation of an unorganized county for judicial or municipal purposes.

Act 74, 1911, p. 107; Eff. Aug. 1.

AN ACT to provide for the appointment of deputies by certain county officers, and for fixing their salaries.

The People of the State of Michigan enact:

45.41 Deputies of county officers in counties over 50,000; appointment, duties.

Sec. 1. In all counties of this state having a population of more than 50,000 where it is provided by law that the county treasurer, county clerk and register of deeds shall receive salaries in lieu of fees, each of said officers may appoint a deputy or deputies who may perform all the official acts which the officer making such appointment might legally do, and who shall be paid therefor from the general fund of the county, such salaries as the board of supervisors of the county shall determine

HISTORY: CL 1915, 2520;—CL 1929, 1427;—CL 1948, 45.41.

Sec. 2. (This was a repealed section.)

HISTORY. Am. 1913, p. 649, Act 344, Eff. Aug. 14;—CL 1915, 2521;—CL 1929, 1428;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.
ACT REPEALED: Sec. 9, Act 654, Local Acts 1905.

Act 123, 1933, p. 175; Imd. Eff. Jun. 15.

AN ACT to regulate the appointment, number and salaries of deputies, clerks and employes of the county treasurer, the register of deeds, the coroners and drain commissioner in certain counties of this state and to repeal certain acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

45.51 Deputies and employees of county officers in counties over 500,000; appointment, compensation.

Sec. 1. In counties having a population of more than 500,000 the county treasurer, the register of deeds, the coroners and the drain commissioner shall and are hereby authorized to appoint a chief deputy, and all other deputies, clerks and employes employed in the departments of each of the said officers. The number and salaries of the said deputies, clerks and employes herein provided for shall be fixed in the same manner as they are fixed for deputies, clerks and employes of the other departments of the county government. The salaries of such deputies, clerks and employes shall be payable in the same manner and at the same time that other county employes are paid.

HISTORY: CL 1948, 45.51.
NOTE: In 1948 Wayne county was the only county of this population.

45.52 Repeal; effect on veterans' preference act.

Sec. 2. All acts and parts of acts, whether general, local or special, contravening the provisions of this act are hereby repealed: Provided, however, That nothing herein

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contained shall be construed so as to affect or modify in any way the provisions of Act No. 205 of the Public Acts of 1897.

HISTORY: CL 1948, 45.52.
NOTE: Act 205, 1897, is Compilers' §§ 35.401-35.404.

Sec. 3. (This was a severing clause section.)
HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 307, 1917, p. 761; Eff. Aug. 10.

AN ACT to provide for the purchase of all supplies, merchandise and articles of every description and character needed for the maintenance and operation of all county offices, departments and institutions, in counties adopting the provisions of this act.

The People of the State of Michigan enact:

45.81 County offices; departments or institutions; purchase of supplies.

Sec. 1. In any county adopting this act, all supplies, merchandise and articles of every description and character necessary for the maintenance and operation of all county offices, departments or institutions shall hereafter be acquired and purchased, and paid and accounted for in the manner provided in this act.

HISTORY: CL 1929, 1429;—CL 1948, 45.81.

45.82 County purchasing agent; appointment, term, compensation; interest in contracts or bids prohibited, penalty.

Sec. 2. A county purchasing agent shall be appointed by the board of supervisors, who shall hold his office for the term of 2 years from the date of his qualification, and until his successor is appointed and qualified. Said purchasing agent shall receive an annual salary to be fixed by the board of supervisors, which shall not be increased or diminished during his term of office, and he shall not receive, directly or indirectly, any extra compensation in the way of commissions or otherwise. Said purchasing agent shall not be interested in or in any manner connected with, directly or indirectly, any contract or bid, for furnishing supplies or articles of any kind to any of the said offices, departments or institutions of the county, nor shall he collect or be paid his salary or any part thereof while he is in any manner or degree indebted to the county or in arrears in his accounts and report as such agent. Neither shall said agent accept or receive from any person, firm or corporation to whom any contract may be awarded, directly or indirectly, by rebate, gift or otherwise any money or other things of value whatever, nor shall he receive any promise, obligation or contract for future reward or compensation from any such party: Provided, That should said purchasing agent violate any of the provisions of this act, or should he receive any rebate, drawback, profit, or benefit from any contract either directly or indirectly, he shall be deemed guilty of a felony, and, upon conviction thereof shall be punished by imprisonment in the State Prison not less than 2 nor more than 5 years.

HISTORY: CL 1929, 1430;—CL 1948, 45.82.

45.83 Purchasing agent; oath of office; surety bond, contents, premium, filing; recoveries.

Sec. 3. The said agent shall, before entering upon the duties of his office, take the constitutional oath of office, and furnish a surety company bond, payable to the county, in a sum to be approved by the board of supervisors, and conditioned for the faithful performance of his duties, and that he will correctly and honestly pass upon and award all bids and contracts for supplies, and will fully and accurately account to and pay over to the county or to the persons authorized to receive the same, all moneys, merchandise and articles of value that shall come into and pass through his hands as such agent, or for which he may be responsible; and also conditioned that he will

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honestly, faithfully and accurately disburse and account for all moneys controlled or handled by him in the performance of his duties. The premium on such bond shall be paid by the county. It is hereby declared unlawful and within the conditions of said bond for said agent to sell or be in any manner concerned in the sale of any merchandise, supplies or other articles to any of the offices, departments or institutions of the county. It shall also be within the condition of said bond, and the same shall provide, that said purchasing agent shall not accept or receive, directly or indirectly, by rebate, commission or in any other manner whatever, any money or other thing of value, directly or indirectly, from any person, firm or corporation, to whom said agent may award any contract. The said bond shall be filed in the office of the county clerk, and recoveries may be had on same until exhausted.

HISTORY: CL 1929, 1431;—CL 1948, 45.83.

45.84 Purchasing agent; advice of county officers.

Sec. 4. All county officers and heads of county departments or institutions shall keep the purchasing agent constantly advised as to the amount and character of supplies on hand, and the amount and character required in order to keep the offices, departments or institutions constantly provided for. They shall also furnish any other information respecting such matters as may be desired or requested by said purchasing agent.

HISTORY: CL 1929, 1432;—CL 1948, 45.84.

45.85 Purchasing agent; duties; estimates of county officers; advertisement for bids; manner of purchase, criteria.

Sec. 5. It shall be the duty of the purchasing agent aforesaid to contract for all supplies, merchandise, printing and articles of every description needed for the maintenance and operation of each county office, department and institution, except those supplies that are of a strictly perishable character, basing his contract or contracts upon estimates to be furnished him by the county officers and heads of county departments and institutions. Such estimates shall be furnished by the first day of July of each year, for an entire year; and all such contracts shall be made after full notice by advertisement of not less than 4 weeks in at least 4 of the leading newspapers of the state to be selected by said agent. Such advertisements shall call for sealed bids or proposals to furnish the aggregate of the desired article and supplies as estimated for by such office, department or institution, naming the articles and supplies and the quantities and character required, and all such bids or proposals shall be for the entire period of 1 year; such supplies, articles, and merchandise to be delivered at such times and in such quantities as said agent may from time to time designate, and should the supplies, or any portion thereof, as contracted for, be not sufficient for the year for which the contract or contracts shall be made, then the contractor or contractors shall be required to furnish such additional supplies at the prices named for similar articles under contract or contracts: Provided, That should said purchasing agent at any time discover that he could purchase the same supplies for less money for any 1 year by buying the same for less time than 1 year, he shall have the authority to make such purchase for a shorter length of time, but not less than 3 months, it being the purpose of this act to authorize and require said purchasing agent to make such contracts upon such terms as will secure the best and cheapest rates for the county in the purchase of articles and supplies of necessity for said offices, departments and institutions, and to that end he shall reserve the right to reject any and all bids, or to accept any bid in part or reject it in part; and if none of the bids and proposals are deemed advantageous and satisfactory, he may buy in the open market until a proper and satisfactory bid is offered. The period for which such bids or proposals are invited shall be clearly stated in said advertisements, as well as the terms and conditions contemplated by the

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provisions of this act. When the same article is estimated for by 2 or more offices, departments or institutions, but of different brands or grades, the purchasing agent may determine which of the brands or grades shall be purchased so as to produce uniformity in use by all the offices, departments and institutions: Provided, That other things being equal, supplies offered by bidders who have an established local business in the county shall have preference.

HISTORY: CL 1929, 1433;—CL 1948, 45.85.

45.86 Bids; bond or certified check required; acceptance.

Sec. 6. Any and all bids or proposals under this act shall be accompanied by a good and sufficient bond or a certified check in such sum as the said purchasing agent may require, the same to be stated in the advertisement as aforesaid, and the said agent may, if he deems its advisable, advertise for the various articles and supplies needed separately or together, and may accept the bid or bids for the same to be furnished separately or all by 1 bidder, as may be most advantageous to the county, and when purchases are made by the county purchasing agent preference shall be given to county or home products, all things being equal.

HISTORY: CL 1929, 1434;—CL 1948, 45.86.

45.87 Bids; inspection by purchasing agent; quality of supplies, rejection; estimates, content, filing, public inspection.

Sec. 7. All bids shall be opened on the date and at the place specified in the advertisement for the same and such opening and inspection of the bids shall be made by the purchasing agent in the presence of the board of supervisors or auditors or their representatives. The supplies and articles furnished under all bids and contracts shall be such as are called by requisition of the county officers or heads of county departments or institutions and equal to and of the same quality as the sample furnished the purchasing agent, and all supplies furnished by contract as provided herein shall be equal to the sample which may be required to accompany the bid. If the supplies delivered under contract do not come up to the sample, the purchasing agent shall refuse to accept the same. The estimates furnished said purchasing agent, as aforesaid, upon which he makes his advertisements and contracts, shall, as near as practicable, state the quantity and quality of the articles and supplies needed, and when possible, the brand of the same, and copies of such estimates shall be filed with the county clerk or, in counties having a board of county auditors, with such board, and be opened to public inspection.

HISTORY: CL 1929, 1435;—CL 1948, 45.87.

45.88 Invoices; transmittal, approval, payment; rejection of supplies, replacement.

Sec. 8. Invoices of all supplies of whatever kind shall be furnished in duplicate by the contractor or seller at the time of every delivery of said supplies, 1 of which shall be transmitted to the department or institution head to which supplies are sent, and 1 by the same mail to the purchasing agent. As soon as the supplies have been received and examined by the head of the institution or department to which the same shall have been shipped, and if he shall find them to correspond in every particular with the invoices transmitted him and the samples by which the supplies were sold, he shall transmit to the purchasing agent the said invoice with a certificate thereon that the supplies received correspond in every particular with the invoice and the sample by which the supplies were sold, and if the purchasing agent shall, upon further examination find such invoice to be correct, he shall transmit it with his approval to the board of supervisors or board of auditors, and when such invoice so approved by the head of the institution or department to which the supplies named therein have been furnished and by the purchasing agent, shall have been further approved by the board of

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supervisors or auditors it shall be the duty of the board to order their warrant for the amount due on the invoice, or upon so much thereof as has been allowed, upon the county treasurer. Whenever the department head shall reject any supplies, he shall immediately notify the purchasing agent and in such notification shall give his reasons for the rejection. All supplies shall be at the risk of the contractor or seller until accepted by the purchasing agent. Whenever any supplies shall be rejected, it shall be the duty of the contractor or seller to immediately take same away and replace such supplies with supplies that will conform to the provisions of the contract.

HISTORY: CL 1929, 1436;—CL 1948, 45.88.

45.89 Bond of successful bidder; terms, filing, recoveries.

Sec. 9. When any bid shall have been accepted, the purchasing agent may require of the successful bidder, a bond payable unto the county with good and sufficient surety, in the sum of not less than 1/3 of the amount of the bid, to be approved by the purchasing agent, conditioned that he will fully, faithfully and accurately execute the terms of the contract into which he has entered. Said bond shall be filed in the office of the purchasing agent and recoveries may be had on such bond until exhausted.

HISTORY: CL 1929, 1437;—CL 1948, 45.89.

45.90 Emergency order; approval, purchase, report, payment; limitation.

Sec. 10. In case any temporary or unforeseen exigency should arise in any of the county offices, departments or institutions and it shall be made to appear upon the written statement of the county officer, or head of the county department or institution that a serious detriment will be caused to the service if the method of purchase as hereinbefore defined shall be pursued, then such officer or head, if upon examination he shall deem an immediate purchase necessary, may by appropriate order to be approved by the purchasing agent and duly entered upon his records, authorize the purchase of such supplies as may be needed to meet such temporary and unforeseen exigency, and which are not embraced in any existing contract, and the county officer or head of a county department or institution may thereupon purchase the same in open market. A report of such purchase, together with a copy of the application of the officer or head, shall be transmitted by the purchasing agent, with his endorsement thereon, to the county auditors, and upon it the county auditors shall issue their warrant upon the treasury of the county for the amount so expended. The provisions of this section shall only apply to articles and supplies that are not of a strictly perishable character.

HISTORY: CL 1929, 1438;—CL 1948, 45.90.

45.91 Purchases to be in accordance with appropriations.

Sec. 11. All purchases by contract, or otherwise, as herein authorized, shall be in accordance with such appropriations as have been made by the supervisors for the support of the several institutions respectively.

HISTORY: CL 1929, 1439;—CL 1948, 45.91.

45.92 Purchase of perishable supplies; rules and regulations.

Sec. 12. The purchasing agent shall frame and transmit to each county institution a system of rules and regulations for the purchase of such supplies as are strictly perishable in their character, and to which conformity by all the county institutions is hereby required.

HISTORY: CL 1929, 1440;—CL 1948, 45.92.

45.93 Clerks; appointment, compensation; annual report by purchasing agent to county supervisors.

Sec. 13. The purchasing agent shall have the authority, with the consent of the board of supervisors, to appoint clerks to assist him in his duties, with such salaries as

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may be allowed by said board, and shall make an annual report to the supervisors at the end of each fiscal year covering all his acts and doings.

HISTORY: CL 1929, 1441;—CL 1948, 45.93.

45.94 Purchasing agent and clerks; appropriation for compensation; personal use of county supplies, penalty.

Sec. 14. Such sum of money as may be necessary is hereby appropriated out of the general fund in the county treasury, to pay the salary of the purchasing agent and the clerks aforesaid and contingent expenses for the first 2 years after the enactment and taking effect of this act: Provided, That no officer or employe created by this act shall ever use or receive for their own use any provisions, clothing, merchandise or other articles furnished by the county, but that the salaries herein fixed shall be their only compensation, and any person who violates this provision shall, upon conviction, be punished by imprisonment in the county jail for a term of not less than 2 nor more than 10 months.

HISTORY: CL 1929, 1442;—CL 1948, 45.94.

45.95 Accounts; condition of payment; purchasing agent, offices, supplies and equipment.

Sec. 15. No account for goods, wares or merchandise purchased by any officers created by this act, shall be paid, unless sworn to as required by law, which affidavit shall further state that no commission or other compensation has been or will be paid as a consideration for such purpose. The said purchasing agent shall be provided with offices at the county seat. It shall be the duty of the board of supervisors or board of auditors to provide the said agent with the necessary stationery and office equipment in the manner now in force in the various county departments.

HISTORY: CL 1929, 1443;—CL 1948, 45.95.

45.96 Repeals; construction of act.

Sec. 16. All acts or parts of acts in any wise contravening the provisions of this act are hereby repealed: Provided, however, That the provisions of this act shall not be construed to repeal any of the accounting laws, except where the provisions of this act are in conflict therewith.

HISTORY: CL 1929, 1444;—CL 1948, 45.96.

45.97 Adoption of act by counties; scope.

Sec. 17. The provisions of this act shall not apply to any county except where such county, by its board of supervisors, shall adopt the provisions hereof. Upon petition of not less than 25 electors of any county in this state, addressed to the board of supervisors, such board shall have power, by resolution, to adopt the provisions of this act in and for their respective counties. The provisions of this act shall not apply to counties having a population of less than 75,000 inhabitants.

HISTORY: CL 1929, 1445;—Am. 1931, p. 227, Act 144, Imd. Eff. May 21;—CL 1948, 45.97.

Act 174, 1943, p. 241; Eff. Jul. 30.

AN ACT to establish a fiscal year for and the time of filing annual reports based thereon of counties, county road commissions and other county agencies; and to declare the effect of this act.

The People of the State of Michigan enact:

45.201 Fiscal year for counties; annual reports, filing.

Sec. 1. Notwithstanding any provisions of law to the contrary, the fiscal year for accounting purposes for each of the several counties of this state, county road commis-

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sions and any and all other county agencies, except counties now or hereafter having a population of 1,500,000 or more, shall be the calendar year ending December 31 of each year, and all annual reports of such counties, county road commissions and other county agencies, based in whole or in part on accounting completed within said fiscal year, and required by law, shall be filed within 30 days after the April meeting of the board of supervisors.

HISTORY: CL 1948, 45.201;—Am. 1960, p. 57, Act 67, Eff. Aug. 17.
NOTE: Act 178, 1937, above referred to, is Compilers' § 224.25.

45.202 Inconsistent provisions of law superseded.

Sec. 2. This act shall be construed as superseding any inconsistent provision of law, and shall be self-executing.

HISTORY: CL 1948, 45.202.

R.S. 1846, Ch. 14.

FILING OATHS AND BONDS BY COUNTY OFFICERS.

45.318 County officers; oaths of office, deposit, filing.

Sec. 118. Each of the officers named in this chapter, except notaries public and prosecuting attorneys, shall before entering upon the duties of his office, and within 20 days after receiving official notice of his election, or within 20 days after the commencement of the term for which he was elected, take and subscribe the oath of office prescribed by the constitution of this state, before some officer authorized by law to administer oaths, and deposit the same with the clerk of the proper county, who shall file and preserve the same in his office.

HISTORY: CL 1857, 466;—CL 1871, 606;—How. 638;—CL 1897, 2641;—CL 1915, 2505;—CL 1929, 1417;—CL 1948, 45.318.
This section as originally enacted was numbered section 119.
OATHS: The chapter above referred to is that of R.S. 1846.

45.319 County officers; bonds, deposit, filing.

Sec. 119. Each of the said officers of whom a bond shall be required by law, except the said treasurer, before entering upon the duties of his office, and within the time limited in the last preceding section for depositing his oath, shall deposit his bond with the said treasurer, who shall file and preserve the same in his office; and the said treasurer before entering upon the duties of his office, and within the time limited in the preceding section for depositing his oath, shall deposit his bond with the clerk of the county, who shall file and preserve the same in his office.

HISTORY: CL 1857, 467;—CL 1871, 609;—How. 639;—CL 1897, 2642;—CL 1915, 2506;—CL 1929, 1418;—CL 1948, 45.319.
This section as originally enacted was numbered section 120.

45.320 County officers; neglect to deposit oath or bond, penalty.

Sec. 120. If either of the said officers shall neglect to deposit his oath or bond according to the provisions of the 2 last preceding sections, without giving the notice specified in the next section, or if he shall enter upon the execution of his office before he shall have so deposited his said oath or bond, he shall in either case, forfeit and pay 100 dollars.

HISTORY: CL 1857, 468;—CL 1871, 610;—How. 640;—CL 1897, 2643;—CL 1915, 2507;—CL 1929, 1419;—CL 1948, 45.320.
This section as originally enacted was numbered section 121.

45.321 Neglect to deposit oath or bond; notice, effect.

Sec. 121. No penalty shall attach on account of any neglect to deposit such oath or bond as aforesaid, in case such officer, before entering upon the execution of his office, and within the time limited for filing such oath or bond, shall give notice in writing to the officer or officers having the power by law to order an election to fill such office, or to fill the same by appointment, stating therein that he declines accepting such office.

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HISTORY: CL 1857, 469;—CL 1871, 611;—How. 641;—CL 1897, 2644;—CL 1915, 2508;—CL 1929, 1420;—CL 1948, 45.321.
This section as originally enacted was numbered section 122.

45.322 Prosecuting attorney; appointment, transmittal of commission, notice.

Sec. 122. Whenever the governor shall appoint a prosecuting attorney, the secretary of state shall transmit his commission to the clerk of the county for which such prosecuting attorney was appointed, and the county clerk on receiving such commission, shall immediately give notice thereof to the person so appointed.

HISTORY: CL 1857, 470;—CL 1871, 612;—How. 642;—CL 1897, 2645;—CL 1915, 2509;—CL 1929, 1421;—CL 1948, 45.322.
This section as originally enacted was numbered section 123.

45.323 Prosecuting attorney; oath of office, filing; delivery of commission.

Sec. 123. The person so appointed shall, before entering upon the duties of his office, and within 20 days after receiving notice of his appointment, appear before the county clerk and take and subscribe the oath of office prescribed by the constitution, and file the same with the clerk, who shall thereupon deliver to the person so appointed the commission received by him for such person, and shall thereupon give notice to the secretary of state of the filing of such oath, and of the time of filing the same.

HISTORY: CL 1857, 471;—CL 1871, 613;—How. 643;—CL 1897, 2646;—CL 1915, 2510;—CL 1929, 1422;—CL 1948, 45.323.
This section as originally enacted was numbered section 124.

45.324 County officers; commencement of terms.

Sec. 124. The regular terms of office of the several county officers elected at the general election shall commence on the first day of January succeeding their election, but those elected at the general election, or at a special election, to fill vacancies, may qualify and enter upon the execution of their offices immediately after being notified of their election.

HISTORY: CL 1857, 472;—CL 1871, 614;—How. 644;—Am. 1889, p. 34, Act 32, Eff. Oct. 2;—CL 1897, 2647;—CL 1915, 2511;—CL 1929, 1423;—CL 1948, 45.324.

Act 27, 1873, p. 26; Eff. Jul. 31.

AN ACT to provide for the approval of the official bonds of county officers by the board of supervisors.

The People of the State of Michigan enact:

45.351 Official bonds of county officers; approval by board of supervisors; exception.

Sec. 1. All official bonds of county officers which are now required by law to be approved by the judge of the circuit court, shall hereafter be approved by the board of supervisors of the county in which said officers are elected: Provided, however, That if the board of supervisors in any case shall not have approved of such bonds or the sufficiency of the sureties thereto before any such officer shall enter upon the duties of his office, the circuit judge of the circuit to which such county may be attached, or the judge of probate of such county may, on application of the officer so elected, approve of the bond and the sureties thereto, on being satisfied of the pecuniary responsibility of the sureties to meet the exigencies of said bond, subject however to the approval of the board of supervisors at their first meeting thereafter: Provided, That this act shall not be in force or operation in Wayne county.

HISTORY: Am. 1877, p. 86, Act 112, Eff. Aug. 21;—How. 645;—CL 1897, 2648;—CL 1915, 2512;—CL 1929, 1424;—CL 1948, 45.351.
WAYNE COUNTY: Compilers' § 47.57 provides that in Wayne county approval shall be by board of auditors.

Sec. 2. (This was a repeal section.)

HISTORY: How. 646;—CL 1915, 2513;—CL 1929, 1425;—Rep. 1945, p. 402, Act 267, Imd. Eff. May 25.

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Act 251, 1947, p. 383; Eff. Oct. 11.

AN ACT relative to the cost of bonds to be provided by county officers.

The People of the State of Michigan enact:

45.371 Official bonds; cost, payment.

Sec. 1. Whenever a bond is required by the laws of this state to be given by any county officer, the board of supervisors may authorize such officer to procure the required bond from any surety company authorized by the laws of this state to execute the same; the cost thereof, not to exceed 1 per cent per annum of the amount of said bond, may, by resolution of the board of supervisors, be paid by the county out of the general fund of said county.

HISTORY: CL 1948, 45.371.

Act 237, 1919, p. 424; Eff. Aug. 14.

AN ACT to authorize the payment of salaries to sheriffs, under-sheriffs and deputy sheriffs and to county clerks, county treasurers and registers of deeds and their deputies, and to make the same in lieu of fees. Am. 1921, p. 380, Act 193, Eff. Aug. 18.

The People of the State of Michigan enact:

45.401 Salaries of county officers; determination by board of supervisors, exception.

Sec. 1. The board of supervisors of each county in this state is hereby authorized and empowered to direct the payment to the sheriff, under-sheriff and deputy sheriffs and to the county clerk, county treasurer and register of deeds and their deputies of the county out of the general fund in the treasury of such county, such salaries as said board may deem proper. Such salaries may be fixed and determined by said board of supervisors at its annual meeting held in October prior to commencement of the terms of said officers, and the same shall be compensation in full for all services performed by such sheriff, under-sheriff and deputy sheriffs and by such county clerk, county treasurer and register of deeds and their deputies: Provided, however, That nothing herein contained shall apply to counties now operating under any local or special act, until such local or special act shall have been repealed.

HISTORY: Am. 1921, p. 380, Act 193, Eff. Aug. 18;—CL 1929, 1346;—Am. 1931, p. 95, Act 60, Eff. Sept. 18;—Am. 1931, p. 354, Act 202, Eff. Sept. 18;—CL 1948, 45.401.

DEPUTY: Appointment, see Compilers' § 45.41.

45.402 County officers; statement of fees collected, disposition, receipts.

Sec. 2. The sheriff, under-sheriff and deputy sheriffs and the county clerks, county treasurers and registers of deeds and their deputies who receive a salary shall collect and make itemized statements of all fees required by law for the service of any process other than that of the county, and of all other fees collected by them which said fees shall be paid by them when collected to the county treasurer, on or before the last day of each month taking duplicate receipts therefor.

HISTORY: Am. 1921, p. 380, Act 193, Eff. Aug. 18;—CL 1929, 1347;—CL 1948, 45.402.

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45.403 Salaries of county officers; payment, condition.

Sec. 3. The salaries aforesaid shall be paid monthly by the county treasurer, upon a warrant issued by the county clerk, but not until an itemized statement of all fees collected and paid over to the county treasurer, as aforesaid, has been sworn to and filed with the county treasurer and duplicate of the receipt thereof filed with the county clerk.

HISTORY: CL 1929, 1348;—CL 1948, 45.403.

45.404 Accounting of money received by county treasurer.

Sec. 4. All money received by the county treasurer by virtue of this act shall be credited to the general fund of the county.

HISTORY: CL 1929, 1349;—CL 1948, 45.404.

45.405 Sheriffs; appointment of under-sheriff and deputies; contracts for board of prisoners; office supplies, claims of salaried officers for expenses, hearing.

Sec. 5. The sheriff shall appoint an under-sheriff and may, in his discretion, appoint such deputy sheriffs as may be provided for by the board of supervisors. The board of supervisors is also hereby empowered to make contracts with the sheriff for the board and laundry of the prisoners lodged in the county jail: Provided, That the board of supervisors or the board of county auditors in counties having a board of county auditors, as the case may be, shall provide for all printing, stationery, postage, purchase of books, records and other papers and things necessary for the public service; and said board is hereby empowered to hear, determine and allow the claims of the sheriff and his deputies and under-sheriff and of the county clerks, county treasurers and registers of deeds and their deputies who receive a salary by virtue of this act, for any money actually expended by them in pursuance of their official duties, the same as other claims against the county.

HISTORY: Am. 1921, p. 381, Act 193, Eff. Aug. 18;—CL 1929, 1350;—CL 1948, 45.405.

45.406 Sheriff; emergency appointment of additional deputies, compensation; report of expenses, official acts and fees; appointment of deputies to protect private interests.

Sec. 6. In times of emergency the sheriff, upon order of the circuit court for the county, made upon the petition of the sheriff or prosecuting attorney of the county, showing the necessity therefor, may appoint for such day or days as may be required, 1 or more additional deputies, who, for services actually rendered, shall receive an amount as determined by the board of supervisors. Upon completion of his service each deputy so appointed shall make and file with the county treasurer a full and detailed report, including his actual expense account, duly verified, of service rendered and official acts performed during the period of service, of all moneys received in fees, mileage, perquisites, and emoluments on account of such appointment, and at the same time shall pay over to the county treasurer all moneys so received, which shall thereupon become the money of the county. The sheriff may also appoint deputy sheriffs to protect private interests, who shall receive no compensation from the county for services on account of such appointment. Said deputies so appointed may be required by the board of supervisors to file a detailed statement with the county clerk of all their official acts.

HISTORY: CL 1929, 1351;—CL 1948, 45.406;—Am. 1987, p. 59, Act 40, Imd. Eff. Jun. 7.

45.407 Sheriff, under sheriff and deputy sheriff; duties.

Sec. 7. It is hereby provided that this act shall be so construed as to require the sheriff, under-sheriff and deputy sheriffs to perform all reasonable services within the jurisdiction of their offices for which the county may be liable and to serve and execute all

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civil writs and processes that may be reasonably served and executed by said officers under salary.

HISTORY: CL 1929, 1352;—CL 1948, 45.407.

45.408 Violation of act; penalty.

Sec. 8. If any sheriff, under-sheriff or deputy sheriffs or any county clerk, county treasurer, or register of deeds, or any deputy of any county clerk, county treasurer or register of deeds shall fail to comply with the provisions of this act, they shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not exceeding 500 dollars or by imprisonment in the county jail not exceeding 6 months, or by both such fine and imprisonment in the discretion of the court.

HISTORY: Am. 1921, p. 381, Act 193, Eff. Aug. 18;—CL 1929, 1353;—CL 1948, 45.408.

Act 351, 1968, p. 676; Imd. Eff. Jul. 30.

AN ACT providing for the compensation of members of county boards, departments, authorities and commissions.

The People of the State of Michigan enact:

45.411 County agencies; compensation of members, determination by board of supervisors.

Sec. 1. Notwithstanding any other provisions of law, members of county boards, departments, authorities and commissions receiving statutory compensation the same as members of boards of supervisors shall receive compensation as determined by the board of supervisors.

HISTORY: New 1968, p. 676, Act 351, Imd. Eff. Jul. 30.

Act 154, 1879, p. 148; Eff. Aug. 30.

AN ACT relative to the salaries of county officers.

The People of the State of Michigan enact:

45.421 Salaries of county officers; increase or decrease after annual determination by board of supervisors.

Sec. 1. The annual salaries of all salaried county officers, which are now or may be hereafter by law fixed by the board of supervisors, shall be fixed by the board on or before October 31 each year and shall not be diminished during the term for which such county officers shall have been elected or appointed, but may be increased by the board during their term of office.

HISTORY: How. 508;—CL 1897, 2649;—CL 1915, 2514;—CL 1929, 1426;—CL 1948, 45.421;—Am. 1967, p. 228, Act 163, Eff. Nov. 2.

Act 261, 1947, p. 391; Eff. Oct. 11.

AN ACT to authorize the board of supervisors in each of the counties of this state, now or hereafter having a population of 1,000,000 or more, to provide for and fix the compensation and prescribe the powers and duties of certain officers and employees of such county; and to provide for the deposit of funds by all county officers and officials with the county treasurer. Am. 1949, p. 15, Act 17, Eff. Sep. 23;—Am. 1955, p. 22, Act 24, Imd. Eff. Apr. 7.

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The People of the State of Michigan enact:

45.451 Salaries of county officers in counties over 1,000,000; determination by board of supervisors; fees payable to county.

Sec. 1. The salaries of the treasurer, prosecuting attorney, county clerk, register of deeds, the county auditors and the circuit court commissioners of any county of this state which now has or hereafter may have a population of 1,000,000 or more, shall be provided for, fixed and determined for each of them by the board of supervisors of said county at its annual meeting held in October prior to the commencement of the terms of said officers in the same proceedings and manner as all other budget appropriations are approved for county officers and employees and the said salary or salaries of said county treasurer, prosecuting attorney, county clerk, register of deeds, county auditors and circuit court commissioners shall be full payment for services performed by said officer or officers for said county or for the patrons of their respective offices, and shall be in lieu of all fees, commissions or perquisites payable to said officers under the laws of this state for the performance and discharge of any duties required by their respective offices or any office, the duties of which they exercise by virtue thereof, and in lieu of all fees or commissions collectible by said officers for the performance of the respective duties of their said offices where the said fees are not fixed by law and that the said officers shall receive no other or further compensation for the duties imposed upon them, or while acting as notary public or in any other capacity authorized by law in the matter of administering oaths or taking acknowledgment upon any instrument, document or application prepared, issued, executed, recorded or filed by or with any such public office or officer relating to the official business of such public office or officer, but all fees or commissions made payable to or that may be charged by them by virtue of said office or as notary public or in the matter of administering oaths or taking acknowledgments as hereinbefore provided shall be received by them for and on account of said county.

HISTORY: CL 1948, 45.451;—Am. 1949, p. 15, Act 17, Eff. Sep. 23;—Am. 1955, p. 22, Act 24, Imd. Eff. Apr. 7.

45.452 County officers; additional compensation for new duties prohibited.

Sec. 2. No officer whose salary is fixed by this act shall be entitled to any fees, commissions or added compensation by reason of any new duties hereafter added to the office held by him.

HISTORY: CL 1948, 45.452.

45.453 County officers; fees collected, payment to county treasurer, statement.

Sec. 3. The said county clerk, circuit court commissioners, county auditors, prosecuting attorney, treasurer and register of deeds of any such county shall receive or collect no other compensation, except the salary above provided, for the performance or discharge of any of the duties of their respective offices, but they shall pay the fees, commissions or charges provided by law to be paid or that they may fix or charge for the performance or discharge of such duties or any duties in their said offices to the county treasurer on the last Saturday of every month, and the same shall be for the use of said county and placed to the credit of the general fund. Such payment shall in all cases be accompanied with a statement in writing of the respective officers, of the services rendered and fees collected, and that the same is true in every particular, which statement shall be verified by the oath of the officers making the same that such statement is true.

HISTORY: CL 1948, 45.453.

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45.454 County officers; record books and accounting forms for uniform system of accounts; audit of accounts; rules and regulations of board of county auditors for deposit and disbursement of funds; duties of county treasurer.

Sec. 4. The board of auditors of said county shall prepare and provide said county treasurer, county clerk, register of deeds, circuit court commissioners, prosecuting attorney, friend of the court, clerk of the common pleas court, sheriff, and every other officer or official whose salary in whole or in part is paid by the county and who, in the course of his official duties, receives any funds either public or private, with the proper books, blanks and forms for the regular and systematic accounting of all moneys received by them from whatever source, in order that every officer and official shall maintain a system of accounting as nearly uniform as may be practicable. Said board shall provide each of said officers with blanks, each having a stub attached, bound in book form and consecutively numbered, for all certificates or certified copies of records on which a fee is collectible. Said blanks shall have entered on their face the amount of the fee collected and for what purpose paid, and shall be a record of the amounts collected by the officer issuing the same. Said board of county auditors shall also have the power and they are hereby authorized at least once each year or more frequently if necessary to examine the books and accounts of the county treasurer and other county officers, and they shall on demand be exhibited to them by said officers. And as often as said board may require, the accounts and vouchers of the said county officers shall be audited and allowed by them, and after the same shall have been audited by said board it shall not be requisite that such accounts and vouchers be again audited by the board of supervisors.

The board of auditors may, by resolution, provide rules and regulations for: (1) the regular deposit of funds with the county treasurer or other recognized depositories approved by the board of auditors; and (2) for the method of disbursing or distributing private funds, by every officer or official whose salary in whole or in part is paid by the county and who, in the course of his official duties, receives any funds either public or private. Whenever any moneys are paid to the county treasurer by any officer or agent of said county, such officer or agent shall take a duplicate receipt therefor, which shall be filed in the office of said board. Said treasurer shall on each day report to said board the moneys received by him on that day, and after making his last report. They shall keep an account of all moneys which may be chargeable against the county treasurer and any other officer who may receive any moneys belonging to the county, and shall keep an account with said officers showing the amounts with which they should be credited, and their accounts shall be so kept that the financial affairs of the county may at any time be ascertained by inspection of the books of said board.

HISTORY: CL 1948, 45.454;—Am. 1955, p. 23, Act 24, Imd. Eff. Apr. 7.

45.455 Incumbent county officers; salaries and fees.

Sec. 5. The present county treasurer, county clerk, register of deeds and circuit court commissioners shall be entitled to receive the salaries, fees and perquisites now legally payable to them, during their present term of office, the provisions of this act notwithstanding.

HISTORY: CL 1948, 45.455.

45.456 Violation of act; penalty.

Sec. 6. Any officer who shall fail to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of not exceeding $500.00 or imprisonment in the county jail not exceeding 6 months.

HISTORY: CL 1948, 45.456.

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45.457 Repeals.

Sec. 7. All acts or parts of acts, so far as contrary to the provisions of this act, whether local or general, are hereby repealed.

HISTORY: CL 1948, 45.457.

Act 34, 1960, p. 28; Imd. Eff. Apr. 14.

AN ACT to appropriate certain money received from the United States for leases of land owned by the United States for flood control, navigation and allied purposes to the county in which the land is situated; to provide for the expenditure of such appropriations; and to prescribe the duties of the state treasurer.

The People of the State of Michigan enact:

45.491 Leased United States lands; appropriation of moneys received for flood control, navigation and allied purposes; payment to county treasurer.

Sec. 1. All sums of money heretofore or hereafter received from the United States, or any department thereof, under an act of congress approved August 18, 1941, being an act providing for the payment to the several states of 75% of all moneys received for leases of land situated in the various states to which the United States owns fee simple title for flood control, navigation and allied purposes, as amended or supplemented, is hereby appropriated to the board of supervisors of the county in which the land is situated. The board of supervisors shall expend such sums in accordance with the provisions and regulations of the acts of congress providing for the distribution to states and counties. Within a reasonable time after receipt of the money from the federal government, the state treasurer shall issue his warrant to the treasurer of the county entitled thereto.

HISTORY: New 1960, p. 28, Act 34, Imd. Eff. Apr. 14.

Act 293, 1966, p. 485; Eff. Mar. 10, 1967.

AN ACT to provide for the establishment of charter counties; to provide for the election of charter commissioners; to prescribe their powers and duties; and to prescribe the mandatory and permissive provisions of a charter.

The People of the State of Michigan enact:

45.501 Charter county; body corporate.

Sec. 1. Every county adopting a charter under the provisions of this act shall be a body corporate.

HISTORY: New 1966, p. 485, Act 293, Eff. Mar. 10, 1967.

45.502 Resolution for submission of question on election of charter commission; adoption by county board of supervisors.

Sec. 2. The board of supervisors of any county, by a majority vote of its members elect may, or upon petition of 5% of the registered electors of the county shall, adopt a resolution providing for the submission of the question of electing a charter commission for the purpose of framing and submitting to the electorate a county home rule

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charter. The petition shall be addressed to the board of supervisors and shall be filed with the clerk of the board not less than 30 days prior to the convening of a regular session of the board or to the convening of any special session called for the purpose of considering the petition.

HISTORY: New 1966, p. 486, Act 293, Eff. Mar. 10, 1967.

45.503 Provision for submission at regular or special election.

Sec. 3. The resolution shall provide that the question shall be submitted to the qualified electors at the next regular primary or general election occurring not less than 90 days from the adoption of the resolution. If there is not to be a regular primary or general election in the county within 180 days, the board of supervisors shall provide in the resolution for a special election on the question.

HISTORY: New 1966, p. 486, Act 293, Eff. Mar. 10, 1967.

45.504 Provision for nomination and election of charter commission; number; eligibility of candidates.

Sec. 4. The resolution shall provide for the nomination and election of a charter commission. The county apportionment commission shall set forth the number of commissioners to be elected, which number shall be as follows:

County Population	Number of Commissioners
Under 5,001	Not more than 7
5,001 to 10,000	Not more than 10
10,001 to 50,000	Not more than 15
50,001 to 600,000	Not more than 21
Over 600,000	25 to 35

It shall also require that a candidate for election to the office of charter commissioner shall have been a qualified elector in his district for not less than 6 months.

HISTORY: New 1966, p. 486, Act 293, Eff. Mar. 10, 1967.

45.505 Provision for partisan election of charter commission; establishment of districts; apportionment plan.

Sec. 5. (a) The resolution shall provide for a partisan election of a charter commission, for the nomination of candidates for the charter commission by petitioning or filing fee and for a primary election. A candidate who elects to pay a filing fee shall pay the fee not less than 3 days before the final day upon which petitions may be filed. The resolution shall provide for the election of charter commissioners from districts established by the county apportionment commission which shall consist of the county clerk, the county treasurer, the prosecuting attorney and the statutory county chairman of each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election. If any county does not have a statutory chairman of a political party, the 2 additional members shall be a party representative from each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election and appointed by the chairman of the state central committee for each of the political parties. The clerk shall convene the apportionment commission and it shall adopt the rules of procedure. Any 3 members of the apportionment commission are a quorum sufficient to conduct its business. All action of the apportionment commission shall be by majority vote of the commission.

Charter commission districts; requirements.

(b) The county apportionment commission within 30 days after the adoption of the resolution by the board of supervisors shall establish charter commission districts equal to the number of commissioners to be elected. All districts shall be single member dis-

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tricts and as nearly of equal population as practicable. The latest official published figures of the United States official census shall be used in this determination, except that in cases requiring division of official census units to meet the population standard, an actual population count may be used to make such division. Other governmental census figures of total population may be used if taken subsequent to the last decennial United States census and the United States census figures are not adequate for the purposes of this act. The secretary of state shall furnish the latest official published figures to the county apportionment commission forthwith upon this act taking effect, and within 15 days after publication of subsequent United States official census figures.

A contract may be entered into with the United States census bureau to make any special census if the latest United States decennial census figures are not adequate.

Each district shall be contiguous, compact and of as nearly square shape as is practicable, depending on the geography of the county area involved and drawn without regard to partisan political advantage. Each city and township shall be apportioned so that it shall have the largest possible number of complete districts within its boundaries before any part of the city or township is joined to territory outside the boundaries of the city or township to form a district. Townships, villages, cities and precincts shall be divided only if necessary to meet the population standard.

Date of primary and election of commission.

(c) The date of the primary shall be the same as the date for the submission of the question as provided in section 3 of this act and the election of the commission shall be at the next primary or general election occurring not less than 60 days after the primary. If no regular primary or general election is to occur within 180 days from the date of the primary, then the board of supervisors shall provide, in the resolution, for a date on which the final election of the commission shall be held.

Apportionment plan; filing; effective date.

(d) The apportionment plan approved by the commission shall be filed in the office of the county clerk at which time it shall become effective, and copies of it shall be forthwith forwarded by the county clerk to the secretary of state for filing and shall be made available at cost to any registered voter of the county.

Apportionment plan; judicial review.

(e) Any registered voter of the county within 30 days after the filing of the plan for his county may petition the court of appeals to review such plan to determine if the plan meets the requirements of the laws of this state. Any findings of the court of appeals may be appealed to the supreme court of the state as provided by law.

Apportionment plan, failure to submit; registered voter's plan; choice of plan.

(f) If the apportionment commission has failed to submit a plan for its county within 60 days but not less then 30 days after the latest official publishing census figures are available or within such additional time as may be granted by the court of appeals for good cause shown on petition from the apportionment commission, any registered voter of the county may submit a plan to the commission for approval. The commission shall choose from among those submitted to it a plan meeting the requirements of the laws of this state and file such plan in the office of the county clerk as set forth in this section within 30 days after the deadline for filing of the commission's own plan or any extension granted thereon.

Apportionment plan, when official.

(g) Once an apportionment plan has been found constitutional and according to the provisions of this act and all appeals have been exhausted or if no appeal has been taken, when the time for appeal has expired, that plan shall be the official apportion-

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ment plan for the county until the next United States official decennial census figures are available, at which time a new apportionment plan under this act shall be accomplished by the county apportionment commission.

Election of commissioners.

(h) The electors of each district established in accordance with this act shall elect 1 commissioner. There shall be no representation other than that set forth by the provisions of this act.

HISTORY: New 1966, p. 486, Act 293, Eff. Mar. 10, 1967.

45.506 Provision for county appropriation to defray costs of election and other costs.

Sec. 6. The resolution shall provide a county appropriation sufficient to defray the cost of the elections and matters incidental thereto and the compensation of the members of the charter commission as set forth in the resolution. The board of supervisors shall provide, whenever necessary, a county appropriation sufficient to defray the cost of suitable office and meeting space, materials, supplies, personnel, the printing and distribution of documents, journals and proceedings, the dissemination of information about the proposed charter and all other expense necessary to permit the uninterrupted and orderly completion of the duties of the commission. The board of supervisors shall also provide, if necessary, a sufficient appropriation to defray the cost of additional elections and compensation of the members of the charter commission should the first charter be rejected by the electorate.

HISTORY: New 1966, p. 488, Act 293, Eff. Mar. 10, 1967.

45.507 Passage of resolution; transmittal of copies to city, village and township clerks; notice of election, publication, posting.

Sec. 7. Upon the passage of the resolution, the county clerk, within 3 business days, shall transmit a certified copy thereof to the clerk of each city, village and township in his county. The county clerk shall publish a notice of election and the proposition and office to be voted upon in at least 1 newspaper having general circulation in the county. The first publication shall be not less than 10 days prior to the election. The county clerk shall also cause a notice of election, together with the proposition and office to be voted upon, to be posted in 2 or more conspicuous places in each precinct within the county. Upon the request of the county clerk the posting shall be done by the clerk of the local unit of government.

HISTORY: New 1966, p. 488, Act 293, Eff. Mar. 10, 1967.

45.508 Ballots; form, content, preparation.

Sec. 8. The ballot to be used for the submission of the question shall be prepared by the county clerk in accordance with the general election laws as follows:

"Shall the county of ..... elect a charter commission for the purpose of framing and submitting to the electorate of the county a county home rule charter under the constitution and laws of Michigan?

Yes ( )

No ( )"

The county clerk shall prepare at county expense the necessary ballots for the election of the charter commission. All ballots shall be prepared and all elections shall be conducted in accordance with the election laws of this state, except that the question may be submitted at a presidential election within any county of this state.

HISTORY: New 1966, p. 488, Act 293, Eff. Mar. 10, 1967.

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45.509 Charter commission members; oath of office; first meeting, notice; presiding officer.

Sec. 9. The members of the charter commission shall file their oath of office with the county clerk prior to the first meeting of the charter commission. The clerk shall give notice, by certified mail, to each member of the commission as to the time and place of the first meeting of the commission, which time shall be not less than 10 days nor more than 20 days after certification of election. The county clerk shall be the acting presiding officer for the commission and shall serve until a permanent presiding officer shall have been chosen from among the members of the commission.

HISTORY: New 1966, p. 488, Act 293, Eff. Mar. 10, 1967.

45.510 Charter commission; organization, quorum, open meetings, record.

Sec. 10. The charter commission shall complete its organization within 30 days after the date of its first meeting. Its organization shall consist of seating its members, selecting its officers and establishing its rules of procedure. A majority of the members elect of the commission constitutes a quorum to transact business but a smaller number may adjourn from day to day. All meetings of the commission and its committees shall be open to the public and a public record shall be kept of all commission and its subcommittee meetings. The commission shall keep a journal of its proceedings.

HISTORY: New 1966, p. 488, Act 293, Eff. Mar. 10, 1967.

45.511 Charter commission; draft of proposed charter, approval; dissolution upon failure to agree.

Sec. 11. The commission shall draft a proposed charter within 180 days after the date of completing its organization as provided in section 10. If the commission has not agreed upon a proposed charter within the 180 days period the charter commission shall be dissolved. Before any proposed charter is submitted to the electors, it shall be approved by a majority of the members elected to the commission with the vote and names of the members voting thereon entered in the journal.

HISTORY: New 1966, p. 489, Act 293, Eff. Mar. 10, 1967.

45.512 Charter commission; vacancies.

Sec. 12. A vacancy in the office of any commissioner shall be filled by a qualified elector selected by the commission. If the commission fails to fill the vacancy within a period of 7 days, the chairman of the board of supervisors shall fill the vacancy forthwith. The new appointee shall be a qualified elector from the same district as the commissioner vacating the office and from the same party.

HISTORY: New 1966, p. 489, Act 293, Eff. Mar. 10, 1967.

45.513 Charter commission; employees and assistants, appointment, compensation; use of county departmental personnel; powers and duties; expenses.

Sec. 13. The commission may appoint employees and assistants as are necessary to perform its duties and shall fix the compensation of the employees and assistants so appointed. Upon the request of the commission, the board of supervisors may authorize the use, by the commission, of the services of any county departmental personnel. The commission shall provide for the printing and distribution of its official documents. It may disseminate information about the proposed charter and do all other things necessary to complete the business of the commission in an orderly manner. All expenses of the charter commission shall be within an adequate appropriation provided by the board of supervisors under the provisions of section 6.

HISTORY: New 1966, p. 489, Act 293, Eff. Mar. 10, 1967.

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45.514 County charter; provisions required.

Sec. 14. A county charter adopted under the provisions of this act shall provide:

(a) For a salaried county executive who shall be elected at large on a partisan basis and for his authority, duties and responsibilities.

(b) For the election of a legislative body to be known as the county commissioners whose term of office shall be concurrent with that of state representatives and for their authority, duties, responsibilities and number which shall be not less than 5 nor more than 21 in counties of less than 600,000, and not less than 5 nor more than 35 in counties of 600,000 or more. The county commissioners shall provide by ordinance for their compensation and may increase or decrease their compensation, but no such change shall be effective during the term of office for which the legislative body making the change was elected. The charter shall also provide for the partisan election of members of the legislative body from single member districts to be established by the county apportionment commission as created in section 5 and in accord with the standards and guidelines established in section 5, subsections (b), (d), (e), (f), (g) and (h) for reapportionment based upon the last official federal decennial census, effective at the first regular general election of the members of the legislative body occurring not less than 12 months after the completion and certification of the federal census.

Each city and township shall be apportioned so that it has the largest possible number of complete districts within its boundaries before any part of the city or township is joined to territory outside the boundaries of the city or township to form a district.

(c) For the partisan election of a sheriff, a prosecuting attorney, a county clerk, a treasurer, a register of deeds, and for the election or appointment of a drain commissioner, if the county has one, and a board of county road commissioners, and for the combining of any 2 or more of the foregoing offices into 1 office as authorized by law.

(d) Except as provided in subsection (c), for the continuation of all existing county offices, boards, commissions and departments whether established by law or by action of the board of supervisors, or for the performance of their respective duties by other county offices, boards, commissions and departments, or for the discontinuance thereof. Nothing in the charter shall be in derogation of the powers and duties of county road commissioners in the exercise of their statutory duties concerning the preservation of a county road system.

(e) For the continuation and implementation of a system of pensions and retirement for county officers and employees in those counties having a system in effect at the time of the adoption of the charter. The system provided under the charter shall recognize the accrued rights and benefits of the officers and employees under the system then in effect. The charter in no way shall infringe upon nor be in derogation of those accrued rights and benefits. The charter shall not preclude future modification of the system.

(f) For the continuation and implementation of a system of civil service in those counties having a system at the time of the adoption of the charter. The system of civil service provided under the charter shall recognize the rights and status of persons under the civil service system then in effect. The charter in no way shall infringe upon nor be in derogation of those rights and status. The charter shall not preclude future modification of the system.

(g) That the general statutes and local acts of the state regarding counties and county officers shall continue in effect except insofar as this act permits the charter to provide otherwise and the charter does in fact provide otherwise.

(h) That all ordinances of the county shall remain in effect unless changed by the charter or an ordinance duly adopted thereunder.

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(i) For the power and authority to adopt, amend and repeal any ordinance authorized by law, or necessary to carry out any power, function or service authorized by this act and by the charter.

(j) For the power and authority to enter into any intergovernmental contract which is not specifically prohibited by law.

(k) For the power and authority to join, establish or form with any other governmental unit an intergovernmental district or authority for the purpose of performing a public function or service, which each is authorized to perform separately, the performance of which is not prohibited by law.

(l) For a debt limit of not to exceed 10% of the state equalized value of the taxable property within the county.

(m) For the levy and collection of taxes and the fixing of an ad valorem property tax limitation of not to exceed 1% of the state equalized value of the taxable property within the county. Not less than 1/2 of such levy shall come from within the constitutional 15 to 18 mill tax limitation.

(n) For initiative and referendum on all matters within the scope of the county's power and authority and for the recall of all county officials.

(o) For amendment or revision of the charter initiated either by action of the legislative body of the county or by initiatory process. In no event shall any amendment or revision become effective unless the same shall have been submitted to the electorate of the county and approved by a majority of those voting thereon.

(p) That the acquisition, operation and sale of public utility facilities for furnishing light, heat or power shall be subject to the same restrictions as are imposed on cities and villages by the constitution and applicable general law.

HISTORY: New 1966, p. 489, Act 293, Eff. Mar. 10, 1967.

45.515 County charter; provisions permitted.

Sec. 15. A county charter adopted under the provisions of this act may provide:

(a) For the office of corporation counsel, public defender, auditor general and all other offices, boards, commissions or departments necessary for the efficient operation of county government. The charter may also provide for the power and authority to establish, by ordinance, other offices, boards, commissions and departments as may become necessary.

(b) That the legislative body of any unit of government which is wholly or partially within the county may transfer, subject to the approval of the legislative body of the county and upon mutually agreed conditions, any municipal function or service to the county if the performance of that function or service, by the county is not specifically prohibited by law, and if the function or service is offered on a county-wide basis.

(c) For the authority to perform at the county level any function or service not prohibited by law, which shall include, by way of enumeration and not limitation: Police protection, fire protection, planning, zoning, education, health, welfare, recreation, water, sewer, waste disposal, transportation, abatement of air and water pollution, civil defense, and any other function or service necessary or beneficial to the public health, safety and general welfare of the county. Powers granted solely by charter may not be exercised by the charter county in a local unit of government which is exercising a like power without the consent of the local legislative body. The cost of any service authorized by charter to be performed by the county, may be determined by negotiation between the local unit of government and the charter county which cost shall be charged to the local unit of government or area benefited by such service, unless and until it is rendered on a county-wide basis in which event such cost may be paid from the general fund. Whenever a function exercised by a local unit of government is transferred to the county and becomes a county function financed through the general

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fund of the county, the county shall reimburse a local unit of government a negotiated sum representing the value of the transferred capital assets of such function owned by and paid for by the local unit of government including outstanding bonded indebtedness of the local unit of government.

(d) For the establishment and maintenance, either within or without the county corporate limits, of roads, parks, cemeteries, hospitals, medical facilities, airports, ports, jails, water supply and transmission facilities, sewage transmission and disposal systems, all public works or other type of facility necessary to preserve and provide effectively for the public health, safety and general welfare of the county.

(e) For the power and authority to levy and collect any taxes, fees, rents, tolls or excises, the levy and collection of which is authorized by law; a tax on income may not be levied unless authorized by law.

(f) For a system of retirement for county officers and employees.

(g) For a classified civil service or merit system for county officers and employees, except those officers and employees who are expressly exempted from civil service by either the constitution or statute.

HISTORY: New 1966, p. 490, Act 293, Eff. Mar. 10, 1967.

45.516 Proposed charter; submission to governor; rejection, revision, resubmission; approval; referendum on adoption and election of officers; incumbent county officers, continuation.

Sec. 16. The charter shall be submitted to the governor for approval within 30 days after its completion. The charter may be approved by the governor upon written recommendation of the attorney general that it conforms to the provisions of the constitution and the statutes of this state. The governor either shall approve or reject the charter within 30 days of its submission. If the governor rejects the charter, he shall return it to the charter commission together with a copy of his reasons therefor. Upon the return of the unapproved charter, the commission shall reconvene, consider the reasons for rejection, revise the proposed charter and submit the revised charter to the governor within a period of 45 days. Upon resubmission, the governor either shall approve or reject the charter within 30 days of its resubmission. If the governor rejects the charter, he shall notify the commission of his action and his reasons therefor. Upon the second rejection of the charter, the commission, within 30 days, either shall reconvene and revise the charter to comply with the governor's objections or it shall take all steps necessary to obtain a judicial interpretation to determine whether the charter conforms to the provisions of the constitution and statutes of this state. Upon approval of the charter by the governor or upon a final favorable judicial interpretation, the commission, within 10 days, shall fix the date, by resolution, for the submission of the proposed charter to the electorate for its adoption. The submission shall be at the time of the next regular primary election occurring not less than 60 days from the adoption of the resolution. If there is not to be a regular primary election within 180 days, the charter commission may provide in the resolution for a special election on the question of the adoption or rejection of the charter. The resolution shall also establish the date for a primary and general election of officers for the newly created elective offices, whose first term shall be for a period ending at the same time as that of the incumbent governor. Thereafter, they shall be elected for 4-year terms concurrent with the terms of the governor. The manner of nomination and election of home rule county officers shall be in all respects the same as that heretofore established for regular county officers. If the charter is submitted to the electors for approval or rejection at any time prior to the regular primary election, at which time such elective county officers as there shall be in the county are regularly nominated prior to the effective date of this act, then all incumbent elective county officers whose offices are retained in the char-

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ter shall continue in office until the expiration of the term for which they were last elected, respectively.

HISTORY: New 1966, p. 491, Act 293, Eff. Mar. 10, 1967.

45.517 Proposed charter; publication; notice of election.

Sec. 17. Upon the passage of the resolution by the charter commission fixing the date for the submission and election, the county clerk, within 3 business days, shall transmit a certified copy of the resolution together with a copy of the proposed charter to the clerk of each city, village and township within his county. The county clerk shall cause the proposed charter to be published in at least 1 newspaper having general circulation within the county. The charter shall be published not less than 2 weeks nor more than 4 weeks prior to the election. The county clerk shall also cause to be published a notice of election in accordance with section 7.

HISTORY: New 1966, p. 492, Act 293, Eff. Mar. 10, 1967.

45.518 Proposed charter; rejection, revision, resubmission to electorate; dissolution of charter commission.

Sec. 18. If the proposed county charter be rejected, the election of officers therein newly created is void, and the chairman of the charter commission shall require it to reconvene within 20 days and provide for revision or amendment to the original draft of the charter previously prepared by it. The commission shall complete its work within 60 days. The charter shall be submitted to the governor under the provisions of section 16. The revised charter shall be resubmitted to the electorate of the county in the same manner as in the first instance. In no case, however, shall a proposed charter be presented to the electorate by a charter commission more than twice. Whenever a charter commission has twice submitted a charter and a charter has been twice rejected by the electorate, that charter commission shall be dissolved.

HISTORY: New 1966, p. 492, Act 293, Eff. Mar. 10, 1967.

45.519 Second charter commission; election procedures; provisions governing; rejection; dissolution of commission.

Sec. 19. Whenever a charter commission has been dissolved, the county board of supervisors may and upon petitions of 5% of the registered electors shall adopt a resolution providing for the election of a second charter commission. The petition shall be filed with the clerk of the board within 60 days after the dissolution of the first charter commission. The board of supervisors shall provide, by resolution, for the election of a second charter commission. The resolution shall conform with the provisions of sections 3 to 6. The second charter commission shall be elected in the same manner as the first charter commission. Any member of the first charter commission shall be ineligible for election to the second charter commission. The authority, duties, responsibilities and term of office of the second charter commission shall be the same as of the first charter commission. If the proposed county charter submitted by the second charter commission is rejected, that charter commission shall be dissolved, and all subsequent charter commissions shall be elected under the provisions of sections 2 to 6.

HISTORY: New 1966, p. 492, Act 293, Eff. Mar. 10, 1967.

45.520 Home rule county status; when change occurs; incumbent officers.

Sec. 20. A county is not deemed to have changed its status from that of a regular county to a home rule county until the charter has been adopted by the electorate and the officers provided for therein have been elected. Each incumbent officer having been elected prior to the adoption of the charter and whose office has not been abolished or duties transferred to another office or department by the charter, for all purposes, shall be deemed to be a home rule county officer duly elected and qualified.

HISTORY: New 1966, p. 493, Act 293, Eff. Mar. 10, 1967.

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45.521 Home rule county; succession to property, moneys, rights, credits and records of county; actions, debts, liabilities, and assessments levied and uncollected, continuation.

Sec. 21. A home rule county created under this act shall succeed to and be vested with the property, real and personal, moneys, rights, credits and effects, and of the records, files, books and papers belonging to such county as it formerly existed. No rights or liabilities of the county which existed at the time it became a home rule county, and no suit or prosecution of any kind commenced prior to and continuing at such time, shall be, in any manner, affected by such change, but the same shall continue, stand or progress as if no such change had been made. The debts and liabilities of the county and taxes and assessments levied and uncollected at the time of such change shall stand until discharged or collected the same as if such change had not been made.

HISTORY: New 1966, p. 493, Act 293, Eff. Mar. 10, 1967.

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CHAPTER 46. BOARDS OF SUPERVISORS

BOARDS OF SUPERVISORS

Act 156 of 1851

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APPORTIONMENT OF COUNTY BOARDS OF SUPERVISORS

Act 261 of 1966

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Act 156, 1851, p. 231; Imd. Eff. Apr. 8.

AN ACT to define the powers and duties of the boards of supervisors of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act. Am. 1937, p. 318, Act 199, Imd. Eff. Jul. 20.

The People of the State of Michigan enact:

46.1 Boards of supervisors; annual and special meetings, time and place.

Sec. 1. The supervisors of the several townships and cities in each of the counties in this state shall meet annually in their respective counties for the transaction of business as a board of supervisors; they may also hold special meetings when necessary at such times and places as they may find convenient, and shall have power to adjourn from time to time as they may deem necessary. The annual meetings of the boards of

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supervisors shall be held on the second Monday of October in each year: Provided, That in counties having a population of 70,000 or over the board of supervisors may, in its discretion, change the time of such annual meeting to the third Monday in September in each year; and when so changed in any county, the term "October session" or any other term used to designate the annual October meeting, shall, in said counties so changing the date of the annual meeting to September, be construed to mean "September session." The annual meetings of the boards of supervisors shall be held at the court house in their respective counties, if there be one, and if there be none then at some place at the county seat, if there be one and if no county seat be established, then at such place in the county as the clerk of said county may appoint, of which said clerk shall give 3 weeks' public notice by publishing the same in some 1 or more newspapers printed and circulating in said county, if there be such, and if none, then in some 1 or more newspapers nearest thereto having a general circulation in said county: Provided, That but 1 legal newspaper rate for printing the same shall be allowed: Provided further, That a regular meeting of the board of supervisors in and for each of the counties of the state may be held on the Tuesday following the second Monday of April in each year at the usual place of meeting of said board of supervisors: Provided further, That the June session of said board of supervisors shall be a regular meeting for the transaction of business by said board.

HISTORY: CL 1857, 335;—CL 1871, 467;—How. 473;—Am. 1887, p. 379, Act 281;—Eff. Sept. 28;—CL 1897, 2475;—Am. 1901, p. 40, Act 26, Imd. Eff. March 26;—Am. 1907, p. 26, Act 25, Imd. Eff. March 20;—Am. 1907, p. 188, Act 147, Eff. Sept. 28;—Am. 1909, p. 326, Act 161, Eff. Sept. 1;—CL 1915, 2265;—Am. 1925, p. 95, Act 70, Eff. Aug. 27;—Am. 1929, p. 70, Act 37, Eff. Aug. 28;—CL 1929, 1120;—Am. 1943, p. 162, Act 125, Imd. Eff. April 13;—CL 1948, 46.1.

46.2 Boards of supervisors; authority to offer rewards; appointment of county paid attendants.

Sec. 2. The board of supervisors is hereby authorized to offer and pay out of the general fund of the county, not to exceed 1,000 dollars as a reward for the arrest and conviction or for information leading to the arrest and conviction of any person or persons having committed a crime within the county or having escaped from any penal institution therein: Provided, That the powers granted hereby may be exercised by the finance committee of the board of supervisors where said board of supervisors is not in session.

Same; county jail attendants, appointment; compensation; bonds. (a) The board of supervisors in any county containing a population of not less than 180,000 nor more than 250,000 according to the last United States census may, by a majority vote of members-elect at any regular or legally called special meeting thereof, provide by resolution for the appointment of a warden or other official and the necessary deputies and assistants to have full charge and control of the county jail and the prisoners therein, under the supervision of the board of supervisors. The board shall fix the salary or compensation and prescribe the duties of such official or officials. They may be required to furnish bonds in amounts and with sureties approved by the board of supervisors.

HISTORY: CL 1857, 336;—CL 1871, 468;—How. 474;—CL 1897, 2475n;—CL 1915, 2265n;—Am. 1925, p. 379, Act 262, Eff. Aug. 27;—Am. 1927, p. 572, Act 310, Eff. Sept. 5;—CL 1929, 1121;—CL 1948, 46.2.

Sec. 19, Ch. XVI, Act 175, 1927, approved May 14, (Criminal Code), being Compilers' § 776.19, is the same as this section, except as follows: award of two thousand instead of one thousand, "when" instead of "where" after "supervisor" in proviso, omitting subd. (a). Act 310 of 1927, amending this section, was approved June 1.

46.3 Boards of supervisors; quorum, voting, open meetings, chairman, administration of oaths, eligibility to other office.

Sec. 3. A majority of the supervisors of any county shall constitute a quorum for the transaction of the ordinary business of the county, and all questions which shall arise at their meetings shall be determined by the votes of a majority of the supervisors present, except upon the final passage or adoption of any measure or resolution, or the allowance of any claim against the county, in which case a majority of all the members

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elected and serving shall be necessary. When taking the yeas and nays on any question to be voted upon, an electrical roll call system may be used. No votes shall be taken by secret ballot except when voting for chairman of the board or on the appointment of officials or employees. They shall sit with open doors, and all persons may attend their meetings. They shall, at their first meeting in each year, commencing January 1, 1969, choose 1 of their number as chairman and 1 of their number as vice chairman. The chairman shall preside at all meetings of the board during the year, if present, but in case of his absence from any meeting, the vice chairman shall preside. Every chairman shall have power to administer an oath to any person concerning any matter submitted to the board or connected with the discharge of their duties, to issue subpoenas for witnesses and to compel their attendance in the same manner as courts of law. The board may provide for the designation of 1 of its members to affix his signature to all contracts, bonds and other documents requiring the signature of the chairman, when the chairman is unable to so do because of illness or any other exigency which, in the opinion of the board, prevents the chairman from performing such functions of his office. No supervisor, while he is a member of such board, shall be eligible to election or appointment to any other county office or position, the election or appointment of which is within the jurisdiction of such board of supervisors.

HISTORY: CL 1857, 337;—Am. 1863, p. 346, Act 195, Eff. Jun. 22;—CL 1871, 469;—How. 475;—Am. 1897, p. 24, Act 24, Eff. Aug. 30;—CL 1897, 2476;—CL 1915, 2266;—Am. 1919, p. 262, Act 144, Eff. Aug. 14;—CL 1929, 1122;—CL 1948, 46.3;—Am. 1958, p. 116, Act 109, Eff. Sep. 13;—Am. 1962, p. 137, Act 144, Eff. Mar. 28, 1963;—Am. 1968, p. 95, Act 56, Imd. Eff. May 28;—Am. 1969, p. 10, Act 5, Imd. Eff. Apr. 11.

46.4 County clerk; duties as clerk of board of supervisors.

Sec. 4. The county clerk of each county, or in his absence his deputy, shall be the clerk of the board of supervisors of such county. It shall be the duty of such clerk:

First, To record all the proceedings of such board in a book provided for that purpose;

Second, To make regular entries of all their resolutions and decisions upon all questions;

Third, To record the vote of each supervisor on any question submitted to the board, if required by any member present;

Fourth, To preserve and file all accounts acted upon by the board, and on no account to allow such accounts to be taken from his office;

Fifth, To certify, under the seal of the circuit court of his county, without charge, copies of any and all resolutions or decisions on any of the proceedings of such board, when required by such board or any member thereof, or when required by any other person upon payment of 6 cents per folio therefor; and such certificate shall be prima facie evidence of the matters therein set forth;

Sixth, To perform such other and further duties as such board may, by resolution, require.

HISTORY: CL 1857, 338;—CL 1871, 470;—Am. 1881, p. 360, Act 262, Eff. Sept. 10;—How. 476;—CL 1897, 2477;—CL 1915, 2267;—CL 1929, 1123;—CL 1948, 46.4.

46.5 Records of board of supervisors; deposit with clerk, public inspection.

Sec. 5. The books, records and accounts of the board of supervisors shall be deposited with their clerk, and shall be open without any charge to the examination of all persons. It shall be the duty of the clerk to designate upon every account upon which any sum shall be audited and allowed by the board, the amount so audited and allowed, and the charges for which the same was allowed.

HISTORY: CL 1857, 339;—CL 1871, 471;—How. 477;—CL 1897, 2478;—CL 1915, 2268;—CL 1929, 1124;—CL 1948, 46.5.

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46.6 Accounts of county treasurer; annual examination by board of supervisors.

Sec. 6. It shall be the duty of every such board of supervisors, as often as once in each year, to examine the accounts of the treasurer of their county, and to ascertain and enter upon their records, a full statement of such account.

HISTORY: CL 1857, 340;—CL 1871, 472;—How. 478;—CL 1897, 2479;—CL 1915, 2269;—CL 1929, 1125;—CL 1948, 46.6.

46.7 County buildings; repair by board of supervisors; tax levy, borrowing; as current county operating expense, limitation.

Sec. 7. It shall be the duty of such board, as often as shall be necessary, to cause the courthouse, jail, and all other public buildings and public offices of the county, to be duly repaired at the expense of such county. The board of supervisors of any county may in any 1 year levy a tax of 1/10 of 1 mill on the assessed valuation of said county for the construction or repair of public buildings or bridges, or may borrow an equal sum for such purposes; and, in any county where the assessed valuation is less than $10,000,000.00, the board may levy a tax or borrow for such purposes to the amount of $1,000.00; but no greater sum shall be raised for such purposes in any county in any 1 year, unless submitted to the electors of the county and approved by a majority of those voting thereon: Provided, however, That the repair of the courthouse, jail and all other public buildings and public offices of the county is hereby declared to be a current county operating expense for which the foregoing provisions are not to be considered as the exclusive means of financing; the board of supervisors may authorize the use of any county collections not raised by taxation and under their control for current county operating expenses, for the repair of public buildings owned by the county: Provided further, That the amount of money spent for the repair of county buildings in any 1 fiscal year from funds not raised by taxation and under control of the board of supervisors for current operating expenses, shall not exceed the total amount of such money collected in that year, unless submitted to the electors of the county and approved by a majority of those voting thereon.

HISTORY: CL 1857, 341;—CL 1871, 473;—How. 479;—CL 1897, 2480;—Am. 1913, p. 124, Act 85, Eff. Aug. 14;—CL 1915, 2270;—CL 1929, 1126;—CL 1948, 46.7;—Am. 1952, p. 201, Act 169, Eff. Sep. 18.

46.8 Convicts' cells; preparation, duty of board of supervisors.

Sec. 8. They shall also cause to be prepared within the jails of their respective counties, at the expense of such counties, so many cells for the reception of convicts, as they may deem necessary.

HISTORY: CL 1857, 342;—CL 1871, 474;—How. 480;—CL 1897, 2481;—CL 1915, 2271;—CL 1929, 1127;—CL 1948, 46.8.

46.9 Board of supervisors; publication of proceedings, receipts and expenses; annual report, publication, copies.

Sec. 9. They shall cause to be made out and published immediately after each session in at least 1 well-established newspaper, if there be one published in the county, if not, in some such paper published nearest thereto, a report of the proceedings of said board at such session, including a report of tne receipts and expenditures, which shall contain a statement of the names of each claimant, the amount claimed and amount allowed, and a full statement of the amounts of the treasurer's account on the last settlement, as found on his balance sheet or account current in making the settlement; and they may also cause an annual report, covering the same items, to be made out and published in pamphlet form in such number as the board may direct. Copies thereof shall be obtainable by any taxpayer upon demand from the county clerk.

HISTORY: CL 1857, 343;—CL 1871, 475;—How. 481;—Am. 1887, p. 380, Act 281, Eff. Sept. 28;—CL 1897, 2482;—CL 1915, 2272;—Am. 1929, p. 299, Act 130, Eff. Aug. 28;—CL 1929, 1128;—CL 1948, 46.9.

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46.10 Board of supervisors; special meetings, request, notice; emergency meetings, notice.

Sec. 10. A special meeting of the board of supervisors of any county shall be held only when requested by at least 1/3 of the supervisors of such county, which request shall be in writing, addressed to the county clerk, and specifying the time, place and purpose of such meeting; and upon the reception of such request, the clerk shall immediately give notice in writing to each of the supervisors by causing the same to be delivered to such supervisors personally, or by leaving the same at the place of residence of such supervisor, or by mailing a copy of said notice to his post office address by certified mail with return receipt requested, at least 10 days before the time of such meeting. The chairman of the board of supervisors may at any time upon a finding and proclamation by him of a peacetime or civil disaster or an attack by a foreign enemy call a special session of the board of supervisors to meet at such time and place as he may deem appropriate, and give notice of such meeting to the members of the board by the best available means of communication. In the event of the incapacity or absence from the county of the chairman of the board of supervisors at the time of such attack by a foreign enemy, then the chairman of the ways and means committee or the chairman of the finance committee may act in the place and stead of the chairman of the board.

HISTORY: CL 1857, 344;—CL 1871, 476;—How. 482;—CL 1897, 2483;—CL 1915, 2273;—Am. 1923, p. 69, Act 49, Eff. Aug. 30;—CL 1929, 1129;—CL 1948, 46.10;—Am. 1955, p. 21, Act 23, Imd. Eff. Apr. 7;—Am. 1960, p. 18, Act 20, Eff. Aug. 17.

46.11 Board of supervisors; powers.

Sec. 11. The said several boards of supervisors shall have power and they are hereby authorized at any meeting thereof lawfully held:

Purchase of realty; poor farm.

First, To purchase for the use of the county any real estate necessary for the erection of buildings for the support of the poor of such county, and for a farm to be used in connection therewith;

Same; county building sites.

Second, To purchase or lease, for a term not to exceed 5 years, any real estate necessary for the site of any court house, jail, clerk's office, or any other county building in such county;

Building site, location.

Third, To fix upon and determine the site of any such building;

Sale or lease of realty.

Fourth, To authorize the sale or leasing of any real estate belonging to such county, and to prescribe the mode in which any conveyance thereof be executed;

New sites for county buildings.

Fifth, To remove or designate a new site for any county buildings required to be at the county seats, when such removal shall not exceed the limits of the village or city at which the county seat is situated, as previously located, and to remove or designate a new site for any county infirmary or medical care facility;

Erection of buildings.

Sixth, To cause to be erected the necessary buildings for poorhouses, jails, clerk's offices, and other county buildings, and to prescribe the time and manner of erecting the same;

Borrowing power, taxation.

Seventh, To borrow or raise by tax upon such county such sums of money as may be authorized by law;

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Loans; time limit on payment.

Eighth, To provide for the payment of any loan made by them, by tax upon such county, which shall in all cases be within 15 years from the date of such loan, except that loans to erect county buildings for public functions shall be repaid within 30 years;

Salaries; claims.

Ninth, To prescribe and fix the salaries and compensation of all employees of their respective counties where not fixed by law, to adjust all claims against their respective counties except in counties having a board of county auditors and the sums allowed in such adjustment of claims shall be subject to appeal as shall be provided by law;

Raising money for current expenses.

Tenth, To direct and provide for the raising of any money which may be necessary to defray the current expenses and charges of said county, and the necessary charges incident to or arising from the execution of their lawful authority, subject to the limitations prescribed in this act: Provided, That the said several boards of supervisors shall have power to borrow in any year, in anticipation of the levy or collection of taxes for the same year, such sum of money, not exceeding 50% of the tax to be levied or collected for the general fund of said county, as may be necessary to defray current expenses of said county. The money so borrowed shall be repaid from such tax when levied and collected;

Township and county poor.

Eleventh, To abolish or revive the distinctions between township and county poor;

New tax roll.

Twelfth, To authorize the making out of a new tax roll;

Laws, regulations, and ordinances.

Thirteenth, To pass such laws, regulations and ordinances relating to purely county affairs as they may see fit, but which shall not be opposed to the general laws of this state and which shall not interfere with the local affairs of any township, incorporated city or village within the limits of such county; to provide suitable penalties for the violation thereof, but said penalties shall not exceed a fine of $100.00 or imprisonment in the county jail for 90 days or both in the discretion of the court; to amend any local act of the legislature in force in their county and referring to matters within the jurisdiction of such board of supervisors or touching the local powers and duties of county officers, but the board of supervisors shall not have power to increase or extend its own powers, duties or jurisdiction and shall not have any jurisdiction over the circuit court; to change the limits of cities, villages and school districts within such county as may be provided by law, and in case there is no general law governing the subject, or where no change can be made in accordance with such general law, may change the limits of the villages upon petition of at least 10% of the resident taxpayers. All the laws, ordinances, regulations and acts of incorporation provided for in this paragraph shall not take effect until notice of such adoption has been published at least once in a newspaper of general circulation in the county, and they shall have been approved by the governor of the state, and it shall be the duty of the clerk of the board of supervisors to cause all such laws, regulations, ordinances and acts to be suitably engrossed, and they shall be signed by the chairman of the board of supervisors and certified to by the clerk thereof, and by the clerk immediately transmitted to the governor for his approval. If he approves the same he shall sign it, if he does not approve it, he shall retransmit the same with his objections to the clerk of the board of supervisors from which the same was received within 10 days from receipt thereof. The ordinance or other act with the reason of the governor for not signing the same shall be submitted by the clerk to the board of supervisors at its next regular or special session, and the

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objections of the governor shall be entered at large on the journal of the board. The act of the board shall thereupon be reconsidered, and if 2/3 of the members elected to such board shall approve the act previously passed, notwithstanding the objections of the governor thereto, it shall become a law, except as herein otherwise provided. If the governor approves such act, he shall cause the same to be deposited with the secretary of state. If he does not approve such act and the board of supervisors passes the same upon reconsideration, notwithstanding the objections of the governor as hereinbefore provided, the clerk of the board of supervisors shall cause the same to be deposited with the secretary of state after such ordinance or act has been certified as above required. No law, regulation, ordinance or act enacted by the board of supervisors shall take effect until 60 days after its adoption by the board: Provided further, That if within 50 days after the said board of supervisors shall have adopted any law, regulation, ordinance or act, a petition signed by not less than 20% of the electors residing in the territory to be affected by such law, regulation, ordinance or act shall be filed with the county clerk asking that such law, regulation, ordinance or act shall be submitted to electors of the district to be affected thereby for their approval or rejection, then said law, regulation, ordinance or act shall not take effect until the same shall have been approved by a majority of the electors of the district affected voting thereon at any regular election or special election called for that purpose: Provided further, That the board of supervisors shall provide the manner of submitting such law, regulation, ordinance or act to the electors for their approval, and determining the result thereof;

County officers, reports, bonds, removal, vacancies.

Fourteenth, To require any county officer whose salary or compensation is paid by the county, to make a report under oath to them on any subject or matters connected with the duties of his office, and to require such officers to give bonds or further or additional bonds, as shall be reasonable or necessary, for the faithful performance of their respective duties; and any such officer who shall neglect or refuse to make any such report, or to give such bond within a reasonable time after being so required, may be removed from office by such board by a vote of 2/3 of all the members elect, and the office declared vacant, and such board may fill such vacancy for the unexpired portion of the time for which such officer was elected or appointed: Provided, That if the spring or fall election shall occur before the expiration of the said unexpired term, if the office be an elective one, the vacancy shall be filled at such election, and it shall be the duty of such board to give reasonable notice of such election to fill the vacancy;

Township roads and bridges, financing.

Fifteenth, To authorize any township or townships in their respective counties, by a vote of the electors of said township or townships, to borrow or raise by tax upon such township any sum of money not exceeding $10,000.00 in any township in any one year, to build or repair any roads or bridges in such township or townships, or in the use of which such township or townships may be interested, and to prescribe the time for the payment of any such loan, which shall be within 15 years, and for assessing the principal and interest thereof upon such township or townships; and if any road or bridge is situated partly in one township and partly in another, or on the line between townships, or in case any township has any particular local interest in the construction or repair of any bridge, such boards of supervisors may determine, under such regulations as they may establish, the relative proportion which each township shall contribute in the building and repairing thereof, and the amount so apportioned to the several townships shall be assessed and collected in the same manner as other township taxes are now assessed and collected by law;

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Property and business management.

Sixteenth, To represent their respective counties and to have the care and management of the property and business of the county in all cases where no other provisions shall be made;

Proceedings before board; audit of claims, removal of officers, hearing.

Seventeenth, To establish such rules and regulations in reference to the management of the interest and business concerns of such county, and in reference to the mode of proceeding before such board, as they shall deem necessary and proper in all matters not especially provided for in this act or in some law of this state: Provided, however, That the board of supervisors shall in no case audit or allow any bill, claim or charge against the people or the county which shall not have been filed with the county clerk of such county on or before the third day of any regular meeting of said board, or on or before the first day of the adjourned or other meeting, as the case may be, except bills or claims which shall have been contracted by said board during the session thereof, and for mileage and per diem of the members of said board; and the county clerk shall keep a book in which he shall enter all claims in the order in which they are presented, giving the name of the claimant, the amount of the claim and the date when presented, which book shall, after the time prescribed for the presentation of claims, be placed in the hands of the chairman for the use of the board: Provided further, That at the October session the board may, by a vote of 2/3 of all the members elected, receive and allow accounts which have wholly accrued during the session: Provided further, That the board of supervisors shall have authority to remove any officer or agent heretofore or hereafter to be appointed by said board when in its opinion he is incompetent to execute properly the duties of his office, or when on charges and evidence it shall be satisfied that he has been guilty of official misconduct, or habitual or wilful neglect of duty, if in its opinion such misconduct or neglect shall be a sufficient cause for such removal; but no such officer or agent shall be removed for such misconduct or neglect, unless charges thereof shall have been preferred to said board of supervisors or the chairman thereof, and notice of the hearing, with a copy of the charges, delivered to such officer or agent, and a full opportunity given him to be heard in his defense, either in person or by counsel;

Exchange of lands.

Eighteenth, To acquire by exchange lands needed for county purposes including the authority to purchase other lands of approximate equal value to be used in exchange for lands owned by the federal government and needed for county purposes.

HISTORY: CL 1857, 345;—Am. 1859, p. 880, Act 244, Eff. May 18;—Am. 1867, p. 109, Act 81, Eff. June 27;—CL 1871, 477;—Am. 1877, p. 156, Act 165, Eff. Aug. 21;—How. 483;—CL 1897, 2484;—Am. 1905, p. 138, Act 98, Eff. Sept. 16;—Am. 1909, p. 795, Act 322, Eff. Sept. 1;—Am. 1913, p. 754, Act 397, Eff. Aug. 14;—CL 1915, 2274;—Am. 1925, p. 90, Act 69, Eff. Aug. 27;—CL 1929, 1130;—CL 1948, 46.11;—Am. 1955, p. 169, Act 108, Imd. Eff. Jun. 3;—Am. 1956, p. 241, Act 132, Imd. Eff. Apr. 13;—Am. 1958, p. 62, Act 59, Eff. Sep. 13;—Am. 1959, p. 270, Act 193, Imd. Eff. Jul. 22;—Am. 1964, P. 244, Act 182, Eff. Aug. 28.

Act 259, 1937, purported to amend this section, but did not go into effect due to referendum defeating Act 258, 1937, as the effective date of Act 259 depended on Act 258.

Required vote of supervisors as to certain subdivisions, see Compilers' § 46.12.

46.11a Armistice day celebration; appropriation by board of supervisors.

Sec. 11a. The board of supervisors is hereby authorized to appropriate such sum as they deem fit for the purpose of a public celebration on Armistice day. The board shall provide for the expenditure of this money in any way they see fit.

HISTORY: Add. 1927, p. 529, Act 280, Eff. Sept. 5;—CL 1929, 1131;—CL 1948, 46.11a.

46.12 Board of supervisors; exercise of certain powers, required vote.

Sec. 12. None of the powers mentioned in the third, fifth, sixth, eleventh, twelfth, thirteenth, fifteenth and sixteenth sub-divisions of the last preceding section shall be exercised without a vote of 2/3 of all the members elected to such board.

HISTORY: CL 1857, 346;—CL 1871, 478;—How. 484;—CL 1897, 2485;—CL 1915, 2275;—CL 1929, 1132;—CL 1948, 46.12.

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46.12a Group insurance, pension or retirement benefits for county employees; authority of board of supervisors to provide.

Sec. 12a. The said several boards of supervisors shall have power and they are authorized at any meeting thereof lawfully held:

Group insurance for employees and dependents.

First, To provide group life, health and accident and hospitalization insurance for the county employees of their respective counties, and of the several offices, boards and departments thereof, including the board of county road commissioners, and the dependents of such employees, either with or without participation in the cost thereof by the said employees, and to appropriate the necessary funds therefor.

Retirement plans; purchase, uniform benefits.

Second, To adopt and establish a plan whereby their respective counties shall purchase or participate in the cost of endowment policies or retirement annuities for the county employees of their respective counties and of the several offices, boards and departments thereof, including the board of county road commissioners, to provide monthly pensions or retirement benefits for each employee after he has attained the age of 60 years in an amount not to exceed $150.00 per month or 2% of the average monthly earnings of the employee for 5 years immediately preceding retirement times the years of service of the employee, whichever may be the lesser sum, or to adopt and establish a plan whereby their respective counties shall pay retirement benefits or pensions to the county employees of their respective counties and of the several offices, boards and departments thereof, including the board of county road commissioners, who have been so employed for not less than 25 years, or who have attained the age of 60 years, and have been so employed for not less than 5 years, to the extent of monthly payments equal to 2% of the employee's highest average monthly compensation or earnings received from said county or county road fund for any 5 years of service times the total number of years of service of the employee, including any fraction of a year not to exceed 3/4 the average final compensation of the employee. A plan may also pay early retirement benefits at ages not younger than 55 years to the extent of actuarially equivalent benefits not increasing the costs of the plan. Endowment policies, retirement benefits, pensions or annuity retirement benefits in excess of the amounts herein stipulated may be provided for by a plan of employee participation to cover the cost of such excess. If the employment or the pension or retirement benefits of any employee who has participated in the cost of such pension or retirement benefits shall be terminated before said employee has received pension or retirement benefits equal to the total amount of his participation, the balance of such total participation shall be refunded to said employee at the time of such termination, if living, or, if deceased, to his heirs or legal representative or designated beneficiary as provided in the plan adopted and established by the board of supervisors. Any plan adopted for the payment of retirement benefits or pensions under the provisions of this section shall grant such benefits to all employees eligible therefor according to a uniform scale for all persons in the same general class or classification and no employee shall be denied such benefits by termination of his employment after he has become eligible therefor under the provisions of said plan and this section. Endowment policies or annuities purchased pursuant to the provisions of this section shall be purchased from legal reserve companies authorized to write such endowment policies or annuities in this state.

Benefits, limitation; average final compensation; longevity pay.

In any plan adopted under the provisions of this section, at least 60% of the total pension or retirement benefit granted to any employee from county funds shall consist of a percentage, not to exceed 2%, of such employee's average final compensation

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times his years of service and shall be granted to each employee eligible for retirement under the provisions of such plan uniformly and without restriction or limitation other than such as are prescribed in this section. "Average final compensation" as used in this section shall mean the annual average of the highest actual compensation received by a county employee during either (i) a period of 5 consecutive years of service contained within his 10 years of service immediately preceding his retirement or (ii) any period of 5 years of service, as shall be specified in the plan. In counties having adopted a plan for granting "longevity pay", the board of supervisors may, in its discretion, exclude such "longevity pay" from average final compensation as above defined for the purpose of computing the rate of employee contribution and the amount of benefits payable to an employee upon retirement. "Longevity pay", as used in this section, shall mean increments of compensation payable at annual or semi-annual intervals and based upon years of service to the county, exclusive of compensation provided for any given class of positions.

Circuit court stenographers, eligibility.

Circuit court stenographers shall be eligible for membership in and the benefits of any pension or retirement benefit under any plan adopted and established pursuant to the provisions of this section, or any social security plan adopted by the county or any one of the counties which pays any portion of the compensation of a circuit court stenographer.

Termination of employment; continuance of eligibility, payment of benefits.

If the employment of any county employee eligible to receive a pension or retirement benefit under any plan adopted and established pursuant to the provisions of this section is terminated, after said employee has completed 8 or more years of service in county employment, said employee shall receive the amount of pension or retirement benefit to which such service would have entitled him under the plan established, provided such employee waives his right to a refund of his total participation upon the termination of employment; the payment of said pension or retirement benefit to begin, as provided in said plan, at any time after he would have become eligible for retirement under such plan had his employment not been terminated, but not later than 90 days after he shall have attained age 65 years. The payment of said pension or retirement benefit shall not begin until the employee has made application therefor in the manner prescribed in said plan so adopted and established.

Total disability; service connected disability or death; dependents.

Any plan adopted and established under the provisions of this section may provide for pensions or retirement benefits for county employees, who become totally disabled for work in the county service from any cause, after not less than 10 years of county employment, to the extent of the limitations heretofore provided in this section, and may also provide for pensions or retirement benefits to the extent of the limitations heretofore provided in this section or $400.00 per month, whichever may be the greater sum, for employees who become totally disabled for work in the county service from causes which are the direct and proximate result of county employment, to continue for the duration of such disability or until eligible for retirement pursuant to other provisions of such plan authorized by this section. Any such plan may also provide for pensions or retirement benefits, to the extent of the limitations heretofore provided in this section, for the actual dependents of any county employee who becomes deceased from any cause while still employed by the county after not less than 10 years of county employment and may also provide for pensions or retirement benefits to the extent of the limitations heretofore provided in this section or $400.00 per month, whichever may be the greater sum, for the actual dependents of any deceased

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county employee whose death is the direct and proximate result of county employment. The plan adopted may provide that the period, from the end of the deceased or disabled employee's period of service to the date he would have become eligible for retirement, be used as a service for the sole purpose of computing the amount of disability or death pension.

County employee, defined; temporary employees; bailiffs.

The term "county employee," when used in this section is hereby defined to include all permanently appointed bailiffs of the common pleas court, bailiffs of the circuit court commissioners and all persons who receive more than 50% of all compensation for personal services, rendered to governmental units, from county funds or county road funds, except persons other than bailiffs of the common pleas court and bailiffs of the circuit court commissioners engaged for special services on a contract or fee basis. Provision may be made to exclude persons who are employed on a temporary basis and persons employed in positions normally requiring less than 1,000 hours, or some lesser specified number of hours, work per year. All persons included within the definition of "county employee" shall be deemed to be employed by said county for the purposes of this section. Common pleas court bailiffs and circuit court commissioner bailiffs shall not be eligible to receive benefits under this act until a plan has been adopted and established by law whereby the entire cost of such benefits shall be payable from charges on all legal instruments in which the processes of service by bailiffs is required and earmarked by law for such benefits. Such plan shall include provisions whereby bailiffs or former bailiffs who had served as bailiff as of January 1, 1967 may retire after 25 years of service regardless of age, with maximum benefits to be computed as follows: Starting as of January 1, 1969, the average of any 5 years of earnings of the previous 10 years served in succession before retirement multiplied by 1.9% times the years of service. County general fund shall not be chargeable for any part of the cost of any plan providing for a retirement fund for such bailiffs under this act.

Disabled employee, continuance of employment for retirement purposes.

Any employee while receiving a pension or retirement benefit because of disability, pursuant to the provisions of this section, may be considered as employed in the county service for the purpose of retirement under other provisions of this section.

Participants in other plans; inclusion.

Any county employee, who is included by law in any other pension or retirement system by reason of the compensation he receives from the county, may be excluded from any plan adopted and established under the provisions of this section or included only to the extent of the difference between benefits granted under this section and such other pension or retirement system.

Post-retirement redetermination of benefits.

Any plan adopted under the provisions of this section may provide for annual or less frequent post-retirement redetermination of pensions. The redetermined amount of pension shall be not greater than the amount of pension otherwise payable multiplied by the following percent: 100.0%, plus 3.0% for each full year, excluding any fraction of a year, in the period from the effective date of payments of the pension and the date as of which the redetermination is being made; nor shall the redetermined amount be less than the amount of pension otherwise payable. Any provision of this section which limits the amount of a pension shall not apply to the operation of this paragraph redetermining the amount of a pension. As used in this paragraph "the amount of pension otherwise payable" means the amount of pension which would be payable without regard to the provisions of this paragraph. The application of any provision redetermining pension amounts may be restricted to pensions having an effective date of payment either prior to or subsequent to a specified date.

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Retirement age; forfeiture of benefits.

In any county pension or retirement plan adopted under the provisions of this section, the board of supervisors may require that all county employees, except elected or appointed officials, be retired from county service upon attaining an age designated in said plan which shall not be less than 65 years of age; or, the board of supervisors may in any such plan designate an age which shall not be less than 65 years of age, at which all county employees, including elected or appointed officials, shall cease to be members of the retirement system and provide that no county employee shall receive additional pension or retirement benefits because of service rendered after attaining the age so designated. The board may also provide that except in the case of becoming a beneficiary, all prior service and membership service which may have been credited to the person shall be forfeited by him at the time his membership terminates.

Cost of benefits; payment, contribution; reserves.

The cost of pension or retirement benefits for any county employee under the provisions of this section may be lawfully paid from the same fund from which the employee receives his compensation, and the several boards of supervisors shall have the power and are hereby authorized at any meeting thereof lawfully held to appropriate the necessary funds to carry out the purposes of this section. Whenever any county shall hereafter adopt and establish a plan whereby said county shall pay retirement benefits or pensions to its employees, pursuant to the provisions of this section, such county shall, in accordance with provisions therefor, which shall be incorporated in said plan, set up, establish and maintain reserves on an actuarial basis in the manner provided in this paragraph, sufficient to finance the pension and retirement and death benefit liabilities under the provisions of the plan and sufficient to pay the pensions and retirement and death benefits as the same become due. Any county which has heretofore adopted a retirement plan, under the provisions of this section, and has set up and established such reserves on an actuarial basis shall maintain same in the manner provided in this paragraph. Such reserves shall be determined by an actuarial valuation and set up, established and maintained by yearly appropriations by the county and contributions by employees. Such reserves shall be set up, established, maintained and funded to cover the pensions and other benefits provided for in said plan in the same manner and within the same limits as to time as is provided for Benefit Plan B in the "municipal employees' retirement act," being Act No. 135 of the Public Acts of 1945, as amended, being sections 38.601 to 38.667 of the Compiled Laws of 1948. All funds in such reserves so set up, established and maintained are hereby constituted trust funds and shall be used for no other purpose than the payment of pensions, retirement and other benefits and refunds of employees' contributions in accordance with the provisions of the plan adopted and established in any county. All employees' contributions shall be kept and accumulated in a separate fund and used only for the payment of annuities and refunds to employees. The provisions of this paragraph shall not apply to any county that has heretofore adopted a retirement plan under the provisions of this section and has not set up and established reserves on an actuarial basis before the effective date of this paragraph.

County pension plan committee, approval; financial statements; audit.

Any plan hereafter adopted and established by a county for the payment of pension and retirement benefits to its employees, under the provisions of this section, shall be approved as complying with the provisions of this section, as amended, by a county pension plan committee consisting of the auditor general, the state treasurer and the executive secretary of the state employees' retirement system, established under the provisions of Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948, before the plan shall become effective or op-

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erative in such county. Any such plan in effect at the time this amendatory section becomes effective shall be approved by said county pension plan committee as complying with the provisions of this section, as amended, within 1 year after the effective date hereof, and each county retirement plan operating under the provisions of this section shall be approved by said committee as complying with the provisions of this amendatory section biennially thereafter. A financial statement for each county retirement plan operating under the provisions of this section shall be submitted annually to the said county pension plan committee by such county board, official or employees as the board of supervisors may designate and said financial statement shall be in such form, contain such information and be submitted as the county pension plan committee shall prescribe. The auditor general shall audit the funds and accounts of county retirement plans adopted and established under the provisions of this section in the same manner as he audits other county accounts and may audit and investigate said county retirement plan funds and accounts to the extent necessary to effectuate the purposes of this section, as amended. The provisions of this paragraph shall not apply to any county that has heretofore adopted a retirement plan under the provisions of this section and has not set up and established reserves on an actuarial basis before the effective date of this paragraph.

Administration; investments; voluntary contributions.

Whenever any county shall adopt and establish a plan for the payment of pensions and retirement benefits to its employees, pursuant to the provisions of this section, the board of supervisors of that county shall have the authority to provide for a board of trustees to administer the plan and for the manner of election or appointment of the members of said board of trustees. The board of supervisors is hereby authorized to grant authority to said board of trustees to fully administer and operate said plan and to deposit, invest and reinvest the funds and reserves thereof within the limitations prescribed by the board of supervisors in said plan. The board of supervisors is hereby empowered to authorize the investment of funds of a county retirement plan established under the provisions of this section in anything in which the funds of the Michigan "state employees' retirement system" or the funds of the "municipal employees' retirement system" may be invested, pursuant to the provisions of Act No. 240 of the Public Acts of 1943, as amended, and Act No. 135 of the Public Acts of 1945, as amended. Any county retirement plan adopted and established under the provisions of this section may provide for financing, funding and the payment of benefits in the same manner and to the same extent as is provided for in Act No. 240 of the Public Acts of 1943 and Act No. 135 of the Public Acts of 1945, both as amended, and any such county retirement plan may provide for and require contributions by county employees, and may permit additional employee contributions on a voluntary basis.

HISTORY: Add. 1943, p. 462, Act 249, Imd. Eff. April 23;—Am. 1945, p. 66, Act 68, Imd. Eff. April 6;—Am. 1947, p. 152, Act 111, Eff. Oct. 11;—CL 1948, 46.12a;—Am. 1949, p. 213, Act 201, Eff. Sep. 23;—Am. 1951, p. 124, Act 95, Eff. Sep. 28;—Am. 1953, p. 290, Act 205, Eff. Oct. 2;—Am. 1954, p. 351, Act 149, Eff. Aug. 13;—Am. 1955, p. 110, Act 69, Eff. Oct. 14;—Am. 1957, p. 386, Act 280, Eff. Sep. 27;—Am. 1962, p. 194, Act 173, Eff. Mar. 28, 1963;—Am. 1963, p. 211, Act 151, Eff. Sep. 6;—Am. 1964, p. 208, Act 165, Imd. Eff. May 19.—Am. 1966, p. 304, Act 231, Imd. Eff. Jul. 11;—Am. 1967, p. 320, Act 222, Eff. Nov. 2;—Am. 1969, p. 493, Act 262, Imd. Eff. Aug. 11.

The enrolled act was presented to the governor on April 12, 1943, at 2:15 p.m., and became a law without his approval upon the expiration of 10 days, Sundays excepted, after presentation.

CITED IN OTHER SECTIONS: The above section is cited in §§ 41.901 and 224.10a.

46.12b Local councils of veterans' affairs; appropriation by board of supervisors for operation.

Sec. 12b. The board of supervisors may appropriate, from time to time, such sums of moneys as it may determine, for the operation of local councils of veterans' affairs.

HISTORY: Add. 1945, p. 52, Act 54, Imd. Eff. Mar. 21;—CL 1948, 46.12b;—Am. 1949, p. 101, Act 92, Imd. Eff. May 16.

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46.12c Assessment of metallic mining properties; appointment of county representative by board of supervisors; information confidential.

Sec. 12c. The board of supervisors of any county or the boards of several counties acting jointly may employ, upon such terms as they approve, any person competent therefor, except any member of a local legislative body or city or village official, to represent such county or counties in regard to the assessment of metallic mining properties including proceedings to review such assessments. Information furnished such employe in his official capacity shall be confidential and shall not be divulged by him except in accordance with judicial order or as required in the proper discharge of his duties.

HISTORY: Add. 1945, p. 260, Act 192, Imd. Eff. May 17;—CL 1948, 46.12c.

46.12d Transfer of functions of governmental unit to county; service credit for retirement benefit purposes.

Sec. 12d. If the functions of a department, board or commission of the state or of any political subdivision of the state, herein called a governmental unit, is transferred to the county, and if all or part of the employees of the functions are transferred from the employ of a governmental unit to the employ of the county, the board of supervisors may regard for the purposes of retirement benefits as set forth in section 12a the service rendered to the governmental unit by the employees transferred as county service to the extent and under such reasonable terms and conditions as are mutually agreeable between the board of supervisors and the governing body of the governmental unit.

HISTORY: Add. 1959, p. 226, Act 163, Imd. Eff. Jul. 16.

46.12e Transfer of county employees to state; employees' retirement benefits.

Sec. 12e. Whenever the employees of a county department of a county which has adopted a retirement system providing for the payment of benefits in the event of a nonduty disability or nonduty death are transferred to the employ of the state by reason of the function or functions of the department being transferred to the state, the employees so transferred who (1) do not withdraw their accumulated contributions from the county's retirement system, and (2) while in the employ of the state sustain nonduty total disability or nonduty death, shall have the credited period of service in the employ of the state added to the credited period of service with the county prior to such transfer for the purpose of determining eligibility for nonduty disability retirement pension or benefits or, for nonduty death benefits payable to the dependents of deceased employees under the plan adopted by the county. All pension or retirement benfits of such transferred employees or their dependents shall be based upon the service credit and compensation earned while in the employ of the county. The board of commissioners by ordinance may provide that all pension or retirement benefits of transferred employees or their dependents shall be based on the highest 5 years of service credit and compensation earned while in the employ of either the county or the state.

HISTORY: Add. 1966, p. 142, Act 123, Imd. Eff. Jun. 23;—Am. 1970, p. 372, Act 116, Imd. Eff. Jul. 23.

46.13 Board of supervisors; division of county into state legislature representative districts.

Sec. 13. The said respective boards of supervisors in each county, entitled to more than 1 representative in the state legislature, shall have power and it shall be their duty, at their annual meeting in the year 1851, and at their annual meeting next after each subsequent apportionment of such representatives by the legislature, to divide their respective counties into representative districts, equal in number to the number of representatives to which such county is entitled by law, in accordance with section

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3 of article 4 of the constitution of this state; and they shall cause to be filed in the office of the secretary of state, and in the office of the clerk of such county, within 30 days after such division, a description of such representative districts, specifying the number of each district, and the population thereof, according to the last preceding enumeration.

HISTORY: CL 1857, 347;—CL 1871, 479;—How. 485;—CL 1897, 2486;—CL 1915, 2276;—CL 1929, 1133;—CL 1948, 46.13.
NOTE: Const. IV, 3, above referred to, had reference to constitution of 1850. See Const. V, 3.

46.13a County purchasing agent and other county representatives, agents and employees; appointment by board of supervisors.

Sec. 13a. The board of supervisors in each of the several counties may appoint a county purchasing agent and such other representatives, agents and employes for its county as may be deemed necessary by it, to carry out any of the powers granted by this act, or by any other law of the state: Provided, That the provisions of this section shall not apply to any county in which county purchasing agents and other county representatives, agents and employes are now appointed or elected under the provisions of any general or local act.

HISTORY: Add. 1921, p. 88, Act 58, Imd. Eff. April 15;—CL 1929, 1134;—CL 1948, 46.13a.

46.13b County controller or board of auditors; appointment by board of supervisors, compensation, tenure, removal; controller as chief accounting officer, powers and duties.

Sec. 13b. The board of supervisors in any county other than counties operating under elected boards of auditors unless presently operating with a county controller, by a majority vote of its members-elect, may appoint a county controller or board of auditors and fix the salary, to be paid in like manner as the salaries of other county officers are paid. The controller or board of auditors after appointment shall hold the office at the pleasure of the board of supervisors and may be removed in the manner provided by law for the removal of county officers, or by a 2/3 vote of all the supervisors elected to office. The controller shall be the chief accounting officer of the county and shall have charge and supervision of the accounts and accounting of every office, officer and department of the county, the whole or any part of the expense of which are borne by the county. The controller shall see that a system of accounting is installed and properly kept by every office, officer and department of the county in strict accord with the provisions of law, and in addition to which he may prescribe and direct the keeping of such other accounts and records and the making of such reports as in his judgment are necessary to properly record and report the financial transactions of the county. All county officers or employees shall furnish such information respecting all county matters in their charge as the controller shall require. The controller shall keep in his office a general ledger in which shall be set up controlling accounts which shall show at all times the assets and liabilities of the county, and of each and every of its funds. The controller shall examine regularly the books and accounts of the several officers, agents and departments of the county and report his findings to the board of supervisors at such times as they shall prescribe. The controller shall make all purchases of books, stationery, materials and supplies which may be required by the county or its officers and agents, the purchase of which is not otherwise provided for by law, and no contract or order for the purchase of any such materials or supplies shall be valid or binding upon the county, nor shall the county be liable for the purchase price thereof, except upon the written order of the controller. This provision shall not apply to any contract or purchase which may be ordered by the board of supervisors at any regular, adjourned or special session thereof, wherein payment is provided by the resolution authorizing such contract or purchase. The controller shall be the custodian of and have charge of the operation, maintenance and repairs of the county courthouse and grounds, including any power, heating or lighting plant in con-

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nection therewith, and in like manner the repairs to the county jail. He shall not create any liability in excess of the appropriations theretofore made by the board of supervisors. The controller shall perform such other duties as the board of supervisors may impose.

HISTORY: Add. 1927, p. 492, Act 257, Imd. Eff. May 23;—Am. 1929, p. 301, Act 132, Imd. Eff. May 7;—CL 1929, 1135;—CL 1948, 46.13b;—Am. 1969, p. 98, Act 49, Imd. Eff. Jul. 17.

46.14 Township; division or alteration by board of supervisors, procedure; county indebtedness to state, tax levy or issuance of bonds by board.

Sec. 14. The board of supervisors in each of the several counties of this state shall have power within their respective counties and all territory attached thereto, by a vote of 3/5 of all the members elected to said board, to vacate, divide or alter in its bounds, any township, whether the boundaries of such township may have been fixed theretofore by a special act of the legislature or by action of the board of supervisors, or erect a new township or organize or consolidate townships, upon application to the board, as hereinafter provided, of at least 20 per centum of freeholders who are actually residents of each of the townships to be affected by the division; except that in any township where there were not to exceed 30 electors at the last general election, then such application may be made by not less than 5 electors of such township voting at the last general election therein: Provided, That in any township where the number of resident freeholders therein has become less than 6, or the number of electors voting at the last general election therein has become less than 5, a declaration of such fact and a petition for the consolidation of such township with another township may be filed with the board of supervisors by the judge of probate, the county clerk and the county treasurer of such county; and upon being furnished with a map of all the townships to be affected by the division, showing the proposed alterations and if the application shall be granted, a copy of said map with a certified statement of the action of said board thereunto annexed, shall be filed in the office of the clerk of said county; and a certified statement of the action of said board shall also be filed in the office of the secretary of state; and it shall be the duty of the secretary of state to cause the same to be published with the laws of the next legislature, after the filing thereof, in the same manner as other laws are published. Whenever it shall appear that any county is indebted to the state of Michigan, judicially or otherwise, and the amount of such indebtedness is determined and established and duly and properly certified to the proper officers of such county, it shall be the duty of the board of supervisors, within 20 days thereafter, to meet and consider such indebtedness or judgment, and said board may at such meeting submit to a vote of the electors of the county a proposition to issue bonds or to levy a tax to pay such indebtedness or judgment, as in this act provided.

HISTORY: Am. 1855, p. 109, Act 59, Imd. Eff. Feb. 10;—Am. 1857, p. 463, Act 181, Imd. Eff. Feb. 17;—CL 1857, 348;—Am. 1867, p. 66, Act 46, Eff. June 27;—CL 1871, 480;—How. 486;—Am. 1895, p. 551, Act 254, Imd. Eff. June 1;—CL 1897, 2487;—Am. 1905, p. 66, Act 46, Imd. Eff. April 6;—Am. 1909, p. 58, Act 36, Eff. Sept. 1;—Am. 1911, p. 146, Act 96, Eff. Aug. 1;—Am. 1913, p. 5, Act 3, Imd. Eff. Feb. 28;—CL 1915, 2277;—Am. 1917, p. 775, Act 312, Eff. Aug. 10;—Am. 1927, p. 398, Act 204, Imd. Eff. May 19;—Am. 1929, p. 96, Act 55, Eff. Aug. 28;—CL 1929, 1136;—CL 1948, 46.14.

DIVISION OF TOWNSHIPS: Procedure for organizing the new township, see Compilers' § 41.151 et seq.

46.15 Township; application by freeholders for division or alteration, notice, publication.

Sec. 15. Notice in writing of such intended application subscribed by those freeholders, electors or county officers required under the provisions of section 14 to sign the application shall be posted in 5 of the most public places in each of the townships to be affected thereby, 4 weeks next previous to such application, to the board of su-

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pervisors; and a copy of such notice shall also be published once in each week for 4 successive weeks immediately preceding the meeting of the board of supervisors at which such application is to be made, in some newspaper printed in the county, if any shall be published therein.

HISTORY: Am. 1855, p. 109, Act 59, Imd. Eff. Feb. 10;—Am. 1857, p. 464, Act 181, Imd. Eff. Feb. 17;—CL 1857, 349;—CL 1871, 481;—How. 487;—CL 1897, 2488;—Am. 1913, p. 7, Act 4, Imd. Eff. Feb. 28;—CL 1915, 2278;—Am. 1917, p. 774, Act 312, Eff. Aug. 10;—Am. 1927, p. 398, Act 204, Imd. Eff. May 19;—Am. 1929, p. 778, Act 305, Eff. Aug. 28;—CL 1929, 1137;—CL 1948, 46.15.

46.16 New township; organization proceedings, notice; incumbent officers, continuation.

Sec. 16. Whenever the board of supervisors shall erect a new township in any county, they shall designate the name thereof, the time and place of holding the first annual township meeting therein, and 3 electors of such township, whose duty it shall be to preside at such meeting, appoint a clerk, open and keep the polls, and exercise the same powers as the inspectors of election at any township meeting. And in case any of the 3 electors above mentioned shall refuse or neglect to serve, the electors of said township present at such meeting shall have power to substitute some other elector of such township for each 1 so neglecting or refusing to serve. Notice of the time and place of such meeting, signed by the chairman or clerk of the board of supervisors shall be posted in 4 of the most public places in such new township, by the persons so designated to preside at such meeting, or by some person appointed by such board of supervisors for that purpose, and in each of the townships whose boundaries may have been altered by the erection of such new township, at least 14 days before holding the same. They shall also fix the place for holding the first township meetings in the town or towns from which such new township shall be taken, which shall also be stated in the notice posted in such last named township; but nothing in this act shall affect the rights, or abridge or enlarge the term of office of any town officer except justice of the peace, in any such township; but such township officer, other than justice of the peace, residing within the limits of such new township, shall continue to be such officer in such new township, till the expiration of the time for which he was elected, in the same manner as if originally elected therein; and the terms of office of all township officers, except justices of the peace elected at such first township meeting, shall expire on the first Monday of April thereafter or as soon thereafter as their successors are elected and qualified.

HISTORY: CL 1857, 350;—CL 1871, 482;—Am. 1881, p. 23, Act 27, Eff. Sept. 10;—How. 488;—CL 1897, 2489;—CL 1915, 2279;—CL 1929, 1138;—CL 1948, 46.16.

46.17 County seat; removal, establishment of new location by board of supervisors.

Sec. 17. Whenever a county seat is proposed to be removed, the board of supervisors for such county shall have power, by a vote of 2/3 of all the members elect, to designate a place to which such proposed removal is to be made, and after a majority of the electors of such county voting thereon shall have voted in favor of the proposed location, as hereinafter provided, to make and establish such county seat.

HISTORY: CL 1857, 351;—CL 1871, 483;—How. 489;—CL 1897, 2490;—CL 1915, 2280;—CL 1929, 1139;—CL 1948, 46.17.

46.18 Removal of county seat; referendum, notice, contents.

Sec. 18. Whenever such board shall have designated the place of such proposed removal as provided in the next preceding section, they shall provide for submitting such proposition, at the time of holding the next annual township meeting, to the vote of the electors of such county, and they shall thereupon cause notice thereof to be posted up in 3 public places in each township, and in each ward of any city in the said county, at least 30 days previous to the time fixed for the submission aforesaid, and shall cause the same to be published in 1 newspaper printed in the county, if any; and if none there, in a paper published nearest to said county, for at least 3 successive weeks pre-

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vious to the time of such submission and vote, setting forth that the place to which such proposed removal is to be made, naming the place which has been designated by 2/3 of such board of supervisors, and stating the day when such proposed removal will be submitted to the electors of said county, in the several townships and cities, or wards of such county.

HISTORY: CL 1857, 352;—Am. 1863, p. 30, Act 32, Eff. June 22;—CL 1871, 484;—How. 490;—CL 1897, 2491;—CL 1915, 2281;—CL 1929, 1140;—CL 1948, 46.18.

46.19 Removal of county seat; election proceedings, returns; action of board; ballots; special elections.

Sec. 19. At the time specified in such notice, a vote of the electors of such county shall be taken in each of the townships, wards, cities, or election districts in such county. The inspectors receiving the votes, shall, in townships, be the same as required at township meetings, and in cities or wards, the same as required at city or ward elections, respectively, and the votes shall be canvassed by the same officers and in the same manner as required at such township meetings, city or ward elections, respectively, and the result of such vote, and statement thereof shall be made and certified by them, and transmitted to the county clerk of such county, within 10 days after such vote shall be taken Provided, That if such statement and result shall not be made, certified or returned, as above provided, the board of supervisors may, at their first meeting after such vote shall have been taken, send for the same, and require the same to be certified and made, the same as the board of canvassers at general elections; and the board of supervisors, for the purpose of ascertaining the result of such vote in such county, shall examine such statements and certificates, and canvass the votes therein certified, and shall determine and declare the result of the vote in the county, and such result shall be entered upon their records; and in case the result shall be in favor of the proposed removal, they shall provide for such removal, together with all the records and papers of such county, within 1 year after such result shall be ascertained and determined as aforesaid, by them, and shall remove the same as soon as suitable buildings shall have been provided for the reception thereof; and they shall enter upon their records the time when such removal shall be deemed to have taken place, and from and after that time the place so designated shall be and continue the county seat of said county for all purposes whatsoever. All voting, as provided in this section, in the several townships, cities or wards, shall be by ballot, and the inspectors of election shall provide a separate box for the reception thereof, in each township and ward, and such vote shall be canvassed by said inspectors the same as other votes. Those voting in favor of such proposed removal, shall have written or printed on their ballots, "for the removal of the county seat." Those voting against such proposed removal, shall have written or printed upon their ballots "against the removal of the county seat." In cities or wards where an election would not otherwise be held on the day specified in the notices above provided for, a special election shall be held on the day so specified, for the purpose of submitting such question of removal to the electors thereof, in the same manner as at charter or ward elections, and the clerk of the inspectors of election of such cities or wards shall give the like notice of such election as is by law required for special elections.

HISTORY: CL 1857, 353;—Am. 1863, p. 31, Act 32, Eff. June 22;—CL 1871, 485;—How. 491;—CL 1897, 2492;—CL 1915, 2282;—CL 1929, 1141;—CL 1948, 46.19.

46.20 Money raising; referendum, notice, ballots.

Sec. 20. Whenever it shall become necessary, under the provisions of this act, to submit to a vote of the electors of any county, the question of raising any sum of money by loan or by tax, the said board, after having determined the sum necessary to be raised, whether the same shall be made by loan or by tax, shall proceed to give the notice of such determination, and of the time when the question will be submitted to

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the electors of such county in the several townships, which notice shall be for the same length of time and posted in the same manner as required by the eighteenth section of this act; and the votes shall be taken, canvassed, certified and returned, in the same manner as required by the nineteenth section of this act, except that those voting for such tax or loan shall have written or printed on their ballots the words "for the tax," or "for the loan," as the case may be; and those voting against the tax or loan, shall have written or printed on their ballots, the words "against the tax," or "against the loan," as the case may be.

HISTORY: CL 1857, 354;—CL 1871, 486;—How. 492;—CL 1897, 2493;—CL 1915, 2283;—CL 1929, 1142;—CL 1948, 46.20.

46.21 Construction of dams or bridges and removal of obstructions over navigable streams; authority of board of supervisors.

Sec. 21. Every such board of supervisors shall have power within their respective counties, to permit or prohibit the construction of any dam or bridge over or across any navigable stream. They shall also have power to provide for the removal of any obstruction arising from the erection of booms or the collecting of logs or rafts in such streams, by any individual; and to direct the time in which, and places where, persons having logs, rafts and boats in such streams shall be allowed to remain, and when the same shall be removed; and may impose such penalties as they deem necessary to enforce such regulations, and authorize the sheriffs or their deputies to carry into effect the regulations made under the provisions of this act.

HISTORY: Am. 1851, p. 272, Act 165, Imd. Eff. June 21;—CL 1857, 355;—CL 1871, 487;—How. 493;—CL 1897, 2494;—CL 1915, 2284;—CL 1929, 1143;—CL 1948, 46.21.

CITED IN OTHER SECTIONS: The above section is cited in § 281.134.

46.22 Construction of dams; petition, contents; permit; notice, hearing, determination; construction of act; copy of petition to state natural resources commission.

Sec. 22. Whenever any person or persons, or any corporation, shall wish to construct a dam across any such stream as is mentioned in the preceding section, such person or persons, or corporation, shall present to the board of supervisors or file with their clerk, to be presented to them at their next meeting, a petition praying for leave to construct such dam, and setting forth the purpose, location, height and description of such dam, and whether it is proposed to construct a lock, or shute, or apron, and of what description for the passage of boats, vessels, rafts or timber. Any permit to build a dam across a navigable stream shall provide for an easement to the public for an adequate and proximate right of way for the portage of small craft around the dam. Before the petition shall be heard and determined by such board, it shall be made to appear to the board that notice of such application, signed by the petitioners, and stating substantially the contents of such petition, has been published in some newspaper in general circulation in each county through which such stream runs at least 3 weeks previous to the hearing of such application. The notice shall also be sent by registered mail return receipt demanded to the last known address of all owners of lands affected as shown by the records of the tax rolls in the office of the county treasurer in the county or counties in which such lands lie, and on such hearing any person or persons shall be heard in favor of and in opposition to the prayer of the petition, the board may adjourn such hearing to any other time or place, and they may grant or refuse the prayer of such petition, and the determination shall be entered at length upon the record of the board. If the board shall allow the dam to be constructed, the petitioners shall be at liberty to construct it by complying fully with the terms and conditions set forth in their petition; and after having obtained such right, and constructed such dam, such petitioners, their heirs, successors or assignees may, if such dam be destroyed, or decayed, construct a new dam, subject to all the same terms and conditions, on the same site, without again applying to the board. Nothing in this act con-

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tained shall be construed as giving to such board of supervisors any power to grant the right to any person or persons, or corporation, to flow, or in any manner to take, or injure the lands of any person or persons, by, or in consequence of constructing such dam or to abrogate requirements of Act No. 123 of the Public Acts of 1929, being sections 307.1 to 307.7 of the Compiled Laws of 1948 or Act No. 184 of the Public Acts of 1963, being sections 281.131 to 281.135 of the Compiled Laws of 1948. When a petition to construct a dam across a navigable stream is presented to the board of supervisors or filed with their clerk, a copy of such petition shall be forwarded by the clerk to the secretary of the natural resources commission at Lansing, together with notice of date and place of hearing on said petition.

HISTORY: CL 1857, 356;—CL 1871, 488;—Am. 1873, p. 177, Act 129, Imd. Eff. Apr. 22;—How. 494;—CL 1897, 2495;—CL 1915, 2285;—CL 1929, 1144;—CL 1948, 46.22;—Am. 1951, p. 38, Act 36, Eff. Sep. 28;—Am. 1969, p. 178, Act 91, Eff. Mar. 20, 1970.

CITED IN OTHER SECTIONS: The above section is cited in § 281.134.

46.23 Construction of bridges; petition, contents; notice; proceedings.

Sec. 23. Whenever any person or persons, township officers or corporation, shall wish to construct any bridge across any stream at a point where the same is navigable for boats or vessels of 15 tons burden or more, they shall apply to the board of supervisors by petition, and shall give notice of the same in like manner, as near as may be, as provided in section 22 of this act; and the powers and the mode of proceeding of such board, shall be the same, as near as may be, as provided in the last named section. Every such petition shall set forth the kind and description of the bridge proposed to be constructed, and whether the same is to be constructed with a draw, or whether any and what provision is to be made for the passage of vessels or boats; and such board shall have the power to grant or refuse the prayer of such petition, upon such terms as they may deem just and reasonable, and to prescribe what description of bridge may be constructed, or to prohibit the construction of any bridge on the proposed location, as in their judgment the public interest shall require.

HISTORY: CL 1857, 357;—CL 1871, 489;—How. 495;—CL 1897, 2496;—CL 1915, 2286;—CL 1929, 1145;—CL 1948, 46.23.

Construction and maintenance, see Act 354 of 1925, being Compilers' § 254.1 et seq.

SAME: OVER NAVIGABLE STREAMS: Powers of board of supervisors, see Compilers' §§ 254.22 and 254.23 et seq.

46.24 Construction of bridges over unnavigable streams; authority of board of supervisors.

Sec. 24. Every such board of supervisors shall have power to make general rules and regulations as to the kind of bridges, and the mode of constructing the same over any such stream, as mentioned in section 21 of this act, when such stream shall not be navigable for boats or vessels of 15 tons burden, or to grant permission for building the same, without the notice or hearing above provided, in such manner as shall be judged proper with reference to the passage of boats, rafts and timber.

HISTORY: CL 1857, 360;—CL 1871, 490;—How. 496;—CL 1897, 2497;—CL 1915, 2287;—CL 1929, 1146;—CL 1948, 46.24.

46.25 Construction, alteration or discontinuance of state or territorial roads; authority of board of supervisors.

Sec. 25. That the board of supervisors of the several counties within this state, are hereby authorized and empowered to cause to be laid out, established, altered, discontinued or opened all state and territorial roads heretofore or now laid out, or hereafter to be laid through or within their respective counties whenever they may deem it for the interest of the public.

HISTORY: CL 1857, 359;—CL 1871, 491;—How. 497;—CL 1897, 2498;—CL 1915, 2288;—CL 1929, 1147;—CL 1948, 46.25.

46.26 Construction, alteration or discontinuance of roads; petition, road survey, declaration of board of supervisors.

Sec. 26. Whenever the board of supervisors of any county are petitioned to by at least 12 freeholders of each of the townships through which any such road or roads may pass, they shall upon such petition authorize the commissioners of highways of

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such townships to cause the line of said road or roads, within their respective townships, to be surveyed and located therein, and such commissioners shall report such survey and location to the board of supervisors of their county. And upon examination of said survey and report said board may declare such road or roads duly laid out, established, discontinued, opened or altered, as the case may be.

HISTORY: CL 1857, 380;—CL 1871, 492;—How. 498;—CL 1897, 2499;—CL 1915, 2289;—CL 1929, 1148;—CL 1948, 46.26.

46.27 Construction, alteration or discontinuance of roads; road survey minutes, recording.

Sec. 27. Whenever said road or roads shall be surveyed, laid out, altered or established under the provisions of this act, it shall be the duty of the board of supervisors to whom such petition and report may have been made as aforesaid, to notify and require the commissioners of highways of the several townships through which said road or roads may pass, to furnish to the several township clerks of such townships, the minutes of all surveys, within their respective townships, and the same shall be recorded by said clerks in the same manner that township roads are recorded.

HISTORY: CL 1857, 381;—CL 1871, 493;—How. 499;—CL 1897, 2500;—CL 1915, 2290;—CL 1929, 1149;—CL 1948, 46.27.

46.28 Construction, alteration or discontinuance of roads; aggrieved landowner, petition, jury trial, proceedings; verdict, notice; apportionment of damages; bond, costs; resubmission.

Sec. 28. Any person feeling himself aggrieved by the action of the board of supervisors by the laying out, altering or discontinuing any road designated by this act, may have his damage assessed by a jury composed of 12 freeholders residing in the township where the land through which said road has been laid out, altered or discontinued is situated. Such person so complaining as against the action of such board, may, within 30 days after receiving notice in writing from the clerk of such board of supervisors of any county that any road has been laid out, altered or discontinued across lands owned by him, go before any justice of the peace in said township where such land is located and file with such justice a petition setting forth the fact of the laying out, altering or discontinuing of such road running through lands owned by him, whereby he has been, or is likely to be damaged, and further praying the court that a venire be issued summoning a jury of 12 freeholders of said township to determine the necessity of laying out, altering or discontinuing said highway, and the taking of private property therefor, and the amount of such damage he has sustained, or is likely to sustain from the action of such board as aforesaid. On the receipt of such petition the said justice shall at once give notice to the petitioner in writing of the date when said petition will be heard before him, and shall also notify in writing the supervisor of said township of the time and place when the same will be heard, which shall not be less than 6 days from the date of the petition, nor more than 12. And on the date and at the hour mentioned in said notice the justice shall direct any constable of said township then present to write the names of 24 freeholders from which to select a jury of 12 persons. On the compliance with such order by the constable, the supervisor, if he be present, and if not present, then the justice aforesaid, together with the person filing such petition, shall proceed to strike each alternately from such list, the names of 6 persons, and the remaining 12 names on said list shall constitute a jury for the purposes aforesaid. But in case any of such jurors on the original list shall be unable to sit, then the court shall direct the officer present to summon talesmen to take their places until such panel is full. When such panel is completed, the justice shall swear said jurors to well and truly determine as to the matters set forth in the petition of the person making the same. Said justice shall have full power to issue subpoenas and to compel the attendance of witnesses, the same as he would have in matters triable before him; and all proceedings on the hearing of said petition shall be conducted as nearly as may

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be as are trials before justices of the peace. If the jury, on hearing all of the evidence both for and against the allowance of damages, and the necessity for the taking of said lands for private purposes, shall determine that the person claiming to be grieved is entitled to damages, then they shall determine as to the amount, and the necessity for the taking of said lands, and under their hands certify to the justice such sum, and the necessity aforesaid, and, in case they determine that such person is not so entitled, they shall certify this fact to said justice, who shall, upon the rendition of such verdict, file the same, and within 10 days from the date of its rendition, transmit the same to the clerk of said county, and shall also serve a copy of the verdict and notice of all proceedings, in relation to said application upon all persons whose lands are affected by said application, which notice shall be full and explicit as to any and all proceedings had therein, and shall at the next regular meeting of the board of supervisors of his county, present the same to such board, and cause it to be entered upon the minutes of such board. In case damages have been awarded, as aforesaid, then such board of supervisors shall apportion the amount to the several townships in said county, and the same when so raised shall go into and become a part of the general fund of such county, and they shall at the same time issue an order to the person or his representatives or assigns, as the case may be, for such sum on the county treasurer, and payable out of any fund in the county treasury not otherwise appropriated: Provided, That the person thus claiming damage shall file with such justice at the time he files his petition a bond in the penal sum of 50 dollars conditioned to pay all costs of such justice, officer and jury; but in case damages are awarded, then the costs of such proceedings shall be certified by said justice along with the award and become a part and parcel thereof, and payable to said petitioner in addition to the award of the jury: And provided further, That in case the jury first summoned shall not agree, then the said cause or hearing shall stand adjourned to some day fixed by justice, but not for a longer period than 10 days; and on the day to which the same shall be continued a jury shall be empaneled and the matter submitted as hereinbefore directed.

HISTORY: CL 1857, 362;—CL 1871, 494;—How. 500;—Am. 1887, p. 185, Act 179, Eff. Sept. 28;—Am. 1889, p. 370, Act 250, Eff. Oct. 2;—CL 1897, 2501;—CL 1915, 2291;—CL 1929, 1150;—CL 1948, 46.28.

46.29 Board of supervisors; orders, resolutions and determinations; recording.

Sec. 29. Every order, resolution and determination of such board of supervisors, made in pursuance of this act, shall be recorded in the records of such board, and signed by the chairman and clerk of such board.

HISTORY: CL 1857, 363;—CL 1871, 495;—How. 501;—CL 1897, 2502;—CL 1915, 2292;—CL 1929, 1151;—CL 1948, 46.29.

46.30 Boards of supervisors; compensation and expenses.

Sec. 30. (1) Every member of such board of supervisors shall be allowed compensation and mileage as follows:

Board meetings; compensation.

(a) The existing rate of compensation per day when this section, as amended, becomes effective shall remain as the rate of compensation until a new rate of compensation shall be established by resolution adopted by the affirmative vote of 2/3 of the members of the board. In counties now or hereafter having a population of not more than 40,000, members of the board shall not receive compensation for attending meetings of the board, either regular or special, for more than 31 days in any calendar year; in counties now or hereafter having more than 40,000 population and not more than 240,000 population, members of the board shall not receive compensation for attending meetings of the board, either regular or special, for more than 51 days in any calendar year; and in counties now or hereafter having a population of more than 240,-

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000, members of the board shall not receive compensation for attending meetings of the board, either regular or special, for more than 61 days in any calendar year.

Mileage; maximum days.

(b) Each member of the board shall receive 10 cents per mile for each mile necessarily traveled in going to and returning from the place of meeting each day such board is in session, but not to exceed the number of days in any calendar year specified in subdivision (a) of this section.

Committee meetings; compensation.

(c) Each member of the board shall receive compensation as established for attendance at board meetings when he is serving as a member of any committee of the board when the board is not in session or when he is acting in an individual capacity as a supervisor or as a chairman of a committee in carrying out the business of the board when authorized by the board. No member of any committee shall be entitled to payment under the provisions of this subdivision where the services performed were not ordered by said board or the chairman of said board or for more than 60 days in any one year as a member of such committee, except that in counties now or hereafter having a population of more than 350,000 and not more than 1,500,000, members serving on each committee shall be entitled to payment of not exceeding a total of 120 days for each committee, but not to exceed a total of 200 days for all committee work in any calendar year, as provided under the provisions of this subdivision, when ordered to serve by the board or chairman of the board. Nothing herein contained shall be construed so as to in any way repeal other acts providing for compensation to members of boards engaged in committee work or change in number of days allowed therein for regular or special sessions in any one year, and said act shall stand the same as if this act had not been passed. The chairman of said board as an ex officio member of the several committees of the board and for the performance of any extra duties assigned to him by the board in connection with attendance at meetings of the several committees of the board, or other assignments, the limitation of number of days for which he may receive compensation shall not apply.

Mileage.

(d) Each member of the board shall receive 10 cents per mile for each mile necessarily traveled in going to and returning from the place of the meeting of such committee for which he is entitled to compensation under the provisions of subdivision (c) of this section.

Compensation for additional board meetings.

(e) A member of the board who has received compensation for the maximum number of board meeting days under subdivision (a) may receive compensation for additional board meeting days in an amount not to exceed the unused number of days allowed the member under subdivision (c). A member of the board who has received compensation for the maximum number of committee meeting days under subdivision (c) may receive compensation for additional committee meeting days in an amount not to exceed the unused number of days allowed the member under subdivision (a).

Per diem for 1 day.

(2) No supervisor shall be entitled to compensation for more than 1 day for any one day that the board of supervisors or any committee thereof shall be in session.

Interest in contracts or other business transactions with county; approval.

(3) No member of such board of supervisors shall be interested directly or indirectly in any contract or other business transaction with any such county, or any board, office or commission thereof, during the time for which he is elected or appointed, nor for 1 year thereafter unless such contract or transaction has been approved by 3/4 of the members of the board of supervisors and so shown on the minutes of the board to-

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gether with a showing that the board is cognizant of such member's interest. This prohibition is not intended to apply to appointments or employment by the county, or its officers, boards, committees or other authority, which appointments and employment shall be governed by the provisions of section 30a of this act.

Compensation of board members as members of other agencies.

(4) Each member of the board of supervisors shall receive such compensation as shall be established by public or local act or by the board of supervisors if not otherwise established for attendance at any meeting of the board, commission, or agency established by a public or local act, of which he is a member.

Salaries of county officers; fixing; increase during term.

(5) Notwithstanding the provisions of any other act, the annual salaries of all salaried county officers which are now or may be hereafter by law fixed by the board of supervisors shall be fixed by the board on or before October 31 each year and shall not be diminished during the term for which such county officers shall have been elected or appointed, but may be increased by the board during their term of office as provided above.

HISTORY: CL 1857, 364;—Am. 1869, p. 88, Act 44, Imd. Eff. March 22;—CL 1871, 496;—Am. 1873, p. 122, Act 88, Imd. Eff. April 15;—Am. 1879, p. 96, Act 102, Imd. Eff. May 24;—How. 502;—Am. 1897, p. 19, Act 18, Eff. Aug. 30;—CL 1897, 2503;—Am. 1903, p. 422, Act 255, Eff. Sept. 17;—Am. 1905, p. 342, Act 237, Eff. Sept. 16;—Am. 1907, p. 452, Act 319, Imd. Eff. June 28;—Am. 1909, p. 326, Act 161, Eff. Sept. 1;—Am. 1915, p. 433, Act 247, Eff. Aug. 24;—CL 1915, 2293;—Am. 1926, Ex. Ses., p. 17, Act 5, Imd. Eff. March 13;—Am. 1929, p. 74, Act 40, Imd. Eff. April 8;—CL 1929, 1152;—Am. 1933, p. 101, Act 84, Eff. Oct. 17;—Am. 1937, p. 318, Act 199, Imd. Eff. July 20;—Am. 1943, p. 163, Act 125, Imd. Eff. April 13;—Am. 1945, p. 536, Act 313, Eff. Sept. 6;—CL 1948, 46.30;—Am. 1949, p. 27, Act 34, Imd. Eff. Mar. 30;—Am. 1952, p. 187, Act 158, Eff. Sep. 18;—Am. 1957, p. 357, Act 270, Eff. Sep. 27;—Am. 1960, p. 85, Act 89, Eff. Aug. 17;—Am. 1962, p. 129, Act 136, Eff. Mar. 28, 1963;—Am. 1964, p. 81, Act 79, Imd. Eff. May 12;—Am. 1965, p. 721, Act 366, Imd. Eff. Jul. 23;—Am. 1966, p. 238, Act 211, Imd. Eff. Jul. 11;—Am. 1966, p. 618, Act 334, Imd. Eff. Sep. 14.

CITED IN OTHER SECTIONS: The above section is cited in § 15.328.

46.30a Board of supervisors; ineligibility for other county appointment or employment; liability, prosecution, penalty; construction of act, exception.

Sec. 30a. No member of the board of supervisors of any county shall be eligible to receive, or shall receive, any appointment from, or be employed in any capacity whatsoever, by any officer, board, committee or other authority of such county. In case of any appointment or employment made in violation of the provisions of this act, both the person making such appointment or employment, and the person so appointed or employed, shall be liable for all moneys paid to such person as salary, wages, or compensation in connection therewith. In case such appointment or employment is made by a committee or board, any member thereof at the time such appointment was made or contract of employment entered into shall be liable therefor and an action for the recovery of any salary, wages, or compensation paid in connection with any appointment or employment made in contravention of the provisions of this act, may be maintained by any taxpayer of such county. All moneys recovered in any such action shall be deposited in the county treasury to the credit of the general fund. The prosecuting attorney of such county shall, upon the request of any such taxpayer, prosecute such action in his behalf. Any member of the board of supervisors accepting such appointment or employment in violation of provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $100.00 or by imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment, in the discretion of the court. Any officer or other official, or any member of a board or committee making any appointment or employment in violation of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to such punishment as is hereinabove described: Provided, however, That no member of the board of supervisors of any county shall be employed in any capacity whatsoever by the county road commission; nor the state highway department: Provided further, That nothing in this act contained shall be construed to limit or prohibit the right of any member of the board of supervisors of any county from becoming a candidate for any elective office at any

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general or special election; or from accepting from the board of supervisors any office or appointment wherein there is no salary to be paid for services therefor: Provided, however, That members of the board of supervisors may act on boards of determination or as special commissioners in connection with all drainage matters calling for such boards of determination.

HISTORY: Add. 1937, p. 320, Act 199, Imd. Eff. July 20;—Am. 1941, p. 158, Act 124, Eff. Jan. 10, 1942;—Am. 1945, p. 244, Act 172, Eff. Sept. 6;—CL 1948, 46.30a.

46.30b Board of supervisors; chairman, compensation.

Sec. 30b. The board of supervisors, by resolution adopted by an affirmative vote of 2/3 of the members, may provide a per diem rate of compensation for the chairman in an amount larger than the amount established for other members of the board.

Advancements to county officers for anticipated expenses; accounting.

The board of supervisors, by resolution, may authorize the county treasurer to advance funds to any county officer for anticipated expenses in connection with county business. Such county officers shall make a complete accounting of all funds advanced and return any unused funds.

HISTORY: Add. 1962, p. 62, Act 77, Eff. Mar. 28, 1963;—Am. 1963, p. 29, Act 27, Imd. Eff. Apr. 25.

46.31 Board of supervisors; neglect of duties, penalty.

Sec. 31. If any supervisor shall neglect or refuse to perform any of the duties which are or shall be required of him by law, as a member of the board of supervisors, without just cause therefor, he shall for each offense forfeit 100 dollars.

HISTORY: CL 1857, 365;—CL 1871, 497;—How. 503;—CL 1897, 2504;—CL 1915, 2294;—CL 1929, 1153;—CL 1948, 46.31.

46.32 Construction of act.

Sec. 32. Nothing in this act contained shall abridge the powers or duties of any board of supervisors, which they now or hereafter may possess under any other law of this state, and which are not provided for in this act.

HISTORY: CL 1857, 366;—CL 1871, 498;—How. 504;—CL 1897, 2505;—CL 1915, 2295;—CL 1929, 1154;—CL 1948, 46.32.

Sec. 33. (This was a repeal and saving clause section.)

HISTORY: CL 1857, 367;—CL 1871, 499;—How. 505;—CL 1915, 2296;—CL 1929, 1155;—Rep. 1947, p. 168, Act 128, Eff. Oct. 11.

ACT REPEALED: Secs. 1-26, Ch. 14, Title 3, R. S. 1846.

Act 182, 1943, p. 256; Eff. Jul. 30.

AN ACT to authorize boards of supervisors in counties having a population of less than 75,000 to create a committee to audit bills and to perform certain other duties, to be known as the finance committee of such board; to define its powers and duties and to fix the compensation of the members thereof.

The People of the State of Michigan enact:

46.51 Finance committee of board of supervisors in counties under 75,000; appointment, terms, vacancies.

Sec. 1. Boards of supervisors in counties, having a population of less than 75,000 and not having a board of county auditors, may provide by resolution for the appointment of a committee consisting of not less than 3 nor more than 5, who shall be members of said board of supervisors, to be known as the finance committee. Upon the adoption of such resolution by a board of supervisors, and at the first regular meeting in each year thereafter, a finance committee shall be appointed by the chairman of said board of supervisors as herein authorized, and when ratified by a majority vote of all members of said board, shall hold office for the term of 1 year. Should a vacancy in the committee occur from death, resignation or otherwise, of any member thereof, the chairman of the board of supervisors shall forthwith make an appointment to fill such vacancy

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and such appointment shall be confirmed at the next meeting of said board of supervisors.

HISTORY: CL 1948, 46.51.

46.52 Finance committee; compensation and expenses, additional.

Sec. 2. Each member of said committee so appointed as aforesaid shall receive as full compensation for his services on said committee, a per diem, to be fixed by the board of supervisors, not to exceed the per diem paid members of the board of supervisors for attendance at sessions of the board, together with mileage not to exceed the mileage paid members of the board of supervisors for travel necessary for attendance at sessions of the board, while attending meetings of said committee: Provided, That the actual days served in any 1 year for which such committee shall receive compensation, shall not exceed 20 days: Provided further, That the compensation and expenses herein provided for said finance committee shall be in addition to the other fees received by such member for his services as a member of the board of supervisors: Provided, however, That the members of such finance committee shall not be entitled to compensation and mileage for attending a meeting of such committee during any regular or special session of the board of supervisors.

HISTORY: CL 1948, 46.52;—Am. 1955, p. 4, Act 5, Eff. Oct. 14.

46.53 Finance committee; powers and duties.

Sec. 3. The finance committee, as herein authorized, shall have power, and it is hereby authorized and directed:

(a) To audit all claims which are chargeable against the county, and no warrant shall be drawn for such claim, nor shall any such claim be paid until it has been audited by such finance committee, and payment thereof authorized by such finance committee.

(b) To examine the books and accounts of all county officers and departments unless otherwise provided by statute. In making such examination it may require the accounts and vouchers of such officer or department to be presented for examination and audit by the committee.

(c) To make a report to the board of supervisors in each year of all accounts audited and allowed by said committee, said report to be made at such time as shall be fixed by the board of supervisors.

(d) It shall also execute and perform all orders of the board of supervisors in any matter within the scope of this act, and not otherwise contrary to the laws of this state.

HISTORY: CL 1948, 46.53.

46.54 Construction of act.

Sec. 4. This act shall not be construed as repealing or contravening any of the provisions of Act No. 58 of the Public Acts of 1909, or amendments thereto; but this act shall be construed as authorizing boards of supervisors to appoint a finance committee to audit, adjust, allow and authorize the payment of claims against such county and thereby expedite the duties of boards of supervisors relating to such claims.

HISTORY: CL 1948, 46.54.

NOTE: Act 58, 1909, above referred to, is Compilers' §§ 46.71-46.76.

Act 301, 1923, p. 473; Eff. Aug. 30.

AN ACT to permit boards of supervisors in certain counties to create a committee to audit bills and to perform certain other duties, to be known as the finance committee of such board; to define its powers and duties and to fix the compensation of the members thereof.

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The People of the State of Michigan enact:

46.61 Finance committee of board of supervisors in counties over 75,000; appointment, terms, vacancies.

Sec. 1. Boards of supervisors in counties having a population of not less than 75,000 and not more than 500,000, may provide, by a resolution, for the appointment of a committee consisting of not less than 3 nor more than 5 who may or may not be members of said board, to be known as the finance committee, and to hold office for a term of 1 year. After such resolution is adopted, and at the first regular meeting of each year thereafter, a committee shall be appointed by the chairman of said board and ratified by a majority vote of all the members elected on said board. Should a vacancy occur in the committee from death, resignation or otherwise, of any member thereof, the chairman shall make an appointment to fill such vacancy and the appointment shall be confirmed at the next meeting of the board.

HISTORY: CL 1929, 1219;—Am. 1931, p. 496, Act 303, Imd. Eff. June 8;—CL 1948, 46.61.

46.62 Finance committee; compensation and expenses, additional.

Sec. 2. Each member of said committee who is a member of the board of supervisors shall receive as full compensation for his services on said committee, a per diem, to be fixed by the board of supervisors, not to exceed $1,000.00 per year, together with his necessary traveling and other expenses, which salary shall be in addition to the other fees received by such member for his services as a member of the board of supervisors. Each member of said committee who is not a member of the board of supervisors shall receive as full compensation, $1,000.00.

HISTORY: CL 1929, 1220;—CL 1948, 46.62;—Am. 1955, p. 67, Act 45, Eff. Oct. 14.

46.63 Finance committee; powers and duties.

Sec. 3. The said committee shall have power, and it is hereby expressly authorized and directed:

(a) To audit all claims which are chargeable against the county, and no warrants shall be drawn for such claim, nor the same be paid until it has been audited by the committee, as herein provided;

(b) To examine the books and accounts and method of conducting all county offices and departments. In making such examination it may require the accounts and vouchers of any such officer or department to be presented, and after the same shall have been examined and audited by the committee it shall report its findings to the board of supervisors;

(c) To have the immediate charge and control of the court house and jail, and to provide for the maintenance of the same in an appropriate manner under such rules and regulations as the board of supervisors may establish;

(d) All requests for finances or appropriations shall first be submitted to the committee and reported by it, with its recommendations, to the board of supervisors;

(e) It shall have supervision and control of all automobiles, trucks or other motor vehicles owned by the county, except such as are owned or under the control of the county board of road commissioners;

(f) It shall make a report to the board of supervisors, at the October session in each year, showing the number of employes in each office and department of the county, and make any recommendations it shall deem advisable, either increasing or decreasing the number of officers and employes in each department, and the salary thereof. It shall recommend whether or not it is deemed advisable to consolidate any offices or departments, giving a complete list of the employes of the county and the salary of each, and its recommendations as to the number of employes and their salaries for each ensuing year;

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(g) To prepare annually before the annual meeting of the board of supervisors in October, a detailed estimate of the necessary expenses of said county for the ensuing calendar year, together with an estimate of the probable receipts of the county from all sources other than taxation, and present the same at the October session of the board with the recommendations of the committee as to the amount of money necessary to be raised by taxation for the several purposes of the county expenditures;

(h) It shall also execute and perform all orders of the board of supervisors in any matter which is not contrary to the laws of the state.

HISTORY: CL 1929, 1221;—CL 1948, 46.63.

Act 58, 1909, p. 94; Eff. Sep. 1.

AN ACT relative to the adjustment and payment of claims against counties, and to provide appeals from the disallowance thereof.

The People of the State of Michigan enact:

46.71 Claims against counties; adjustment, allowance and authorization of payment by board of supervisors.

Sec. 1. It shall be the duty of the board of supervisors of each county, or the board of county auditors in counties having a board of county auditors, to adjust, allow and authorize the payment of all claims against the particular county, and any claims not adjusted and ordered paid by the said board of supervisors or board of county auditors, as the case may be, except as provided in this act, shall not be paid. Any claim or any part or portion thereof which may be adjusted or allowed by the board of supervisors or the board of county auditors shall be paid out of the county treasury in the manner provided by general law.

HISTORY: CL 1915, 2299;—CL 1929, 1186;—CL 1948, 46.71.

46.72 Disallowance of claims; appeal to circuit court, notice; bond, costs.

Sec. 2. When the claim of any person, firm or corporation against a county shall be disallowed in whole or in part by the board of supervisors or board of county auditors, such person, firm or corporation may appeal from the decision of such board to the circuit court for the same county, by causing a written notice of such appeal to be served on the county clerk within 20 days after such disallowance: Provided, That no appeal shall be allowed, unless such claimant shall have appeared before the said board and presented evidence or shall have attached an affidavit in support of such claim. The appeal herein authorized shall be of no force or effect, unless there is filed with the county clerk at the same time the notice of appeal is served a bond for 200 dollars running to the county with sufficient surety, to be approved by the county clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against the appellant.

HISTORY: Am. 1911, p. 64, Act 53, Eff. Aug. 1;—CL 1915, 2300;—CL 1929, 1187;—CL 1948, 46.72.

46.73 Appeal; county clerk, notice to prosecutor; return of proceedings, filing.

Sec. 3. The county clerk upon being served with such notice of appeal shall immediately give notice thereof to the prosecuting attorney, and make out a brief return of the proceedings of the board of supervisors or board of county auditors relating to such claim, with the decision thereon, and attach thereto the notice of appeal and all other papers in the case in his possession or which may have been before the auditing board, together with his certificate that such return is a true statement of the proceedings of the auditing board in regard to the decision appealed from, and that the notice

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of appeal, bond and other papers are all the papers in his possession or which were before the auditing board relating to such appeal, and forthwith file same in his office.

HISTORY: CL 1915, 2301;—CL 1929, 1188;—CL 1948, 46.73.

46.74 Appeal; county clerk, entry of action; pleadings; procedure.

Sec. 4. The county clerk shall, as soon as the said return is filed in his office, enter in the circuit court record an action in which the claimant shall be plaintiff and the particular county defendant. The claimant shall not be permitted to file any amended or different claim from that presented to the board of supervisors or board of county auditors. The statement or return of the proceedings before the auditing board, prepared and filed in the office of the county clerk, shall be equivalent to a declaration in such action, and the defendant may file its plea thereto within 20 days after such appeal is taken. Every appeal thus taken to the circuit court shall be docketed among the other causes pending therein, and shall be heard, tried and determined as an original cause, and the practice in the circuit court shall be followed in all such matters, except where the contrary is herein expressed.

HISTORY: CL 1915, 2302;—CL 1929, 1189;—CL 1948, 46.74.

46.75 Appeal; parties to proceeding, affidavit of interest; recoveries; costs, attorney fees.

Sec. 5. When an appeal is taken by a person, firm or corporation not a party to the proceeding before the board of supervisors or board of county auditors, such appeal may upon motion be dismissed, unless such person, firm or corporation shall file with the clerk of said circuit court an affidavit setting forth that the said appellant has an interest in the matter and is aggrieved by the decision of the auditing board, and alleging explicitly the nature of the interest. If upon appeal the claimant shall recover anything in addition to the amount allowed by the board of supervisors or board of county auditors, costs shall be granted the claimant regardless of the amount so recovered. If nothing shall be allowed in addition to the amount authorized by the auditing board, the defendant shall have costs. If the appeal is from the action of the board of supervisors or the board of county auditors allowing a part of a claim, the court may examine all the items thereof and give the defendant the benefit of the aggregate amount allowed thereon, and if it shall appear that the appellant or claimant has been allowed all that he is entitled to, he shall be entitled to judgment for that amount, and the defendant shall recover costs: Provided, That a term fee or attorney fee shall not be allowed in any case.

HISTORY: CL 1915, 2303;—CL 1929, 1190;—CL 1948, 46.75.

46.76 Appeal; entry of judgment, payment; final determination.

Sec. 6. When the appellant shall be granted any sum in addition to the amount allowed by the auditing board, the circuit judge may authorize the clerk of the court to enter a judgment in favor of the claimant for the amount, which judgment when properly entered shall authorize the county treasurer to pay the amount thereof to the claimant. The circuit court may in all cases make a final determination of the proceeding which is appealed, or may return the said claim to the board of supervisors or the board of county auditors with an order how to proceed, and may require such board to comply with the final determination made by the court in the premises.

HISTORY: CL 1915, 2304;—CL 1929, 1191;—CL 1948, 46.76.

46.77 Appeal; duty of prosecuting attorney.

Sec. 7. It is hereby made the duty of the prosecuting attorney to represent the board of supervisors or board of county auditors in any such appeal, but he shall not receive or be entitled to any additional compensation therefor.

HISTORY: CL 1915, 2305;—CL 1929, 1192;—CL 1948, 46.77.

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Act 86, 1863, p. 127; Imd. Eff. Mar. 11.

AN ACT to authorize the board of supervisors of the several counties of this state, to cancel and destroy orders that may have been drawn on any of the funds of the county, and remaining uncalled for and on file for the period of 6 years and upwards.

The People of the State of Michigan enact:

46.81 Uncalled for orders; cancellation, authority of board of supervisors.

Sec. 1. That the board of supervisors of the several counties of this state, be and they are hereby authorized, at any regular meeting, to cancel and destroy all orders drawn on any of the funds of the county, which may have remained uncalled for and on file for the period of 6 years and upwards.

HISTORY: CL 1871, 501;—How. 506;—CL 1897, 2506;—CL 1915, 2297;—CL 1929, 1156;—CL 1948, 46.81.

46.82 Uncalled for orders; record, contents.

Sec. 2. Said boards, before destroying any such orders, shall cause to be entered in the minutes of their proceedings, a brief description thereof, containing the name of the payee, the number, date, and amount of each order.

HISTORY: CL 1871, 502;—How. 507;—CL 1897, 2507;—CL 1915, 2298;—CL 1929, 1157;—CL 1948, 46.82.

Act 189, 1911, p. 324; Eff. Aug. 1.

AN ACT to authorize boards of supervisors to purchase for their respective counties the reversionary interests in real property transferred to counties for public purposes; and to provide for the payment for the same.

The People of the State of Michigan enact:

46.91 Reversionary interests in real property; purchase by board of supervisors, limitation.

Sec. 1. The board of supervisors in each county is hereby empowered by majority vote of all the members-elect, at any regular, adjourned or special session of said board, to purchase for their respective counties, the reversionary interest in and to any and all real estate which may have been theretofore transferred to said county by deed, dedication or otherwise for public purposes, and to provide for the payment for the same as for other current and necessary expense: Provided, That no greater sum than 5,000 dollars shall be expended under the provisions of this act for the purposes aforesaid, unless authorized by a majority of the electors of such county voting therefor at a general election or at a special election called therefor.

HISTORY: CL 1915, 2325;—CL 1929, 1162;—CL 1948, 46.91.

SALE OF LANDS: See Act 258 of 1925, being Compilers' § 554.401 et seq.

Act 60, 1923, p. 84; Imd. Eff. Apr. 20.

AN ACT to authorize the board of supervisors of any county of this state, severally, or in conjunction with the legislative body or board of any 1 or more cities or villages having a population in excess of 5,000 according to the last official census to establish and operate a public agricultural produce market or markets or sell, exchange or abandon the same. Am. 1952, p. 149, Act 131, Eff. Sep. 18.

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The People of the State of Michigan enact:

46.101 Public agricultural produce market; construction or purchase by board of supervisors; joint action.

Sec. 1. In any county the board of supervisors of such county is hereby authorized to construct and equip, or purchase and equip a building or buildings to be used as a public agricultural produce market, and to purchase a site within the county for such purpose: Provided, however, That such board of supervisors shall not participate with any city or village to the extent of more than 60 per cent of the cost of construction and operation of such market.

HISTORY: CL 1929, 1163;—CL 1948, 46.101;—Am. 1952, p. 149, Act 131, Eff. Sep. 18.

46.102 Public market; expenses; borrowing, issuance of bonds.

Sec. 2. For the purpose above mentioned the board of supervisors may expend such sums of money as may be necessary, not exceeding 1 mill on each dollar of the assessed valuation of the county, and may borrow such sum or sums on the faith and credit of the county and issue bonds therefor.

HISTORY: CL 1929, 1164;—CL 1948, 46.102.

REGULATION OF MUNICIPAL OBLIGATIONS: See Act 202 of 1943, being Compilers' § 131.1 et seq.

46.103 Public market; control by board of supervisors or joint committee; employees; existing markets, disposition.

Sec. 3. When a public agricultural produce market has been established in any county under this act by the board of supervisors alone, the board of supervisors shall have control thereof and may make regulations for the use and operation of such market, and may appoint a market master and such other employees as they may deem necessary, whose salary shall be paid from the general fund. However, if said market is established in conjunction with any city or village, or both, or either, the market shall be under the control of a joint committee of 5 members who shall serve at the pleasure of the appointing authority, and 3 shall be appointed by the agreeing body of the party having the greatest investment therein and the other 2 by the other party or parties. Such committee may employ a market master and such other employees as the committee shall deem necessary and the expenses and profits shall be divided according to the ratio of investment.

Any markets now existing, participated in by any county and another eligible municipality as herein indicated, may, by resolution of the interested governing bodies, be declared to be operating under this act, and such markets may, by resolution carrying a 2/3 vote of the members-elect of the respective governing bodies involved, be sold, exchanged or abandoned, in which event the proceeds shall be divided according to the ratio of investment.

HISTORY: CL 1929, 1165;—CL 1948, 46.103;—Am. 1952, p. 150, Act 131, Eff. Sep. 18.

46.104 Referendum on adoption of act.

Sec. 4. This act shall not take effect until it has been approved by a majority vote of the electors of said county voting therefor at a general or special election called for that purpose.

HISTORY: CL 1929, 1166;—CL 1948, 46.104.

Act 228, 1911, p. 398; Eff. Aug. 1.

AN ACT to authorize the boards of supervisors of the several counties in this state to borrow money, and issue bonds therefor, for the purchase of land and improve the same by the erection of buildings and other improvements thereon or for the purpose of improving and erecting buildings upon lands already purchased and held by said

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county to be used for the purpose of holding thereon fairs and exhibitions of an agricultural character. Am. 1925, p. 23, Act 15, Eff. Aug. 27.

The People of the State of Michigan enact:

46.111 Agricultural fairs and exhibitions; purchase of lands, improvements; acceptance of donations; borrowing, referendum, notice.

Sec. 1. The boards of supervisors of the several counties in this state are hereby authorized to borrow not to exceed 75,000 dollars, and to issue bonds therefor, to purchase land and improve the same by the erection of buildings and other improvements thereon or for the purpose of improving and erecting buildings upon lands already purchased and held by said county for the purpose of holding thereon fairs and exhibitions of an agricultural character, and to grant the use thereof from time to time to agricultural and other societies of a similar nature. All fences, buildings, sheds and other improvements made on such lands by societies using the same shall be the property of the county; and for the purpose of improving such lands the said boards may receive donations of money, material or labor from any person, township, city or village within the county: Provided, That before the board of supervisors shall be authorized to borrow money for the purposes in this act provided, the question shall first be submitted to a vote of the electors of the county at a general or special election called for that purpose, and 3/5 of the electors voting on such proposition shall have voted in favor thereof. Notice of the submission of such proposition to a vote of the electors and in case a special election is called, notice of the calling of such special election shall be given in the same manner and for the same length of time as now prescribed by law, and the manner of stating the question upon the ballots shall be prescribed by the resolution of the board of supervisors.

HISTORY: CL 1915, 2317;—Am. 1925, p. 23, Act 15, Eff. Aug. 27;—CL 1929, 1167;—CL 1948, 46.111.

REGULATION OF MUNICIPAL OBLIGATIONS: See Act 202 of 1943, being Compilers' § 131.1 et seq.

Act 12, 1921 (1st Ex. Ses.), p. 781; Imd. Eff. Jun. 15.

AN ACT to authorize and empower the board of supervisors of any county holding in trust the property of any agricultural society organized under any law of this state, to execute and deliver in conjunction with such society, a mortgage or mortgages covering all or any of the real estate of such society in order to provide means for the payment of its obligations contracted for or arising from, the maintenance of such fair.

The People of the State of Michigan enact:

46.121 Fair property held in trust; mortgage by board of supervisors.

Sec. 1. The board of supervisors of any county holding in trust the property of any agricultural society organized under any law of this state for the purpose of the holding and maintaining of agricultural, industrial and mechanical fairs, is hereby authorized and empowered in conjunction with said society to execute and deliver a mortgage on all or any of the real property of said society for the purpose of securing the payment of the obligations of such society contracted for or arising from the maintenance of such fair. The terms and conditions of such mortgage shall be subject to the discretion of such board of supervisors.

HISTORY: CL 1929, 1168;—CL 1948, 46.121.

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Act 13, 1927, p. 19; Imd. Eff. Mar. 30.

AN ACT to authorize and empower the board of supervisors of any county holding in trust the property of any agricultural society organized under any law of the state, to purchase and acquire all or any part of the beneficial interest of such agricultural society in such property or any part thereof so held in trust, and to have and hold such property in fee.

The People of the State of Michigan enact:

46.131 Fair property held in trust; purchase by board of supervisors.

Sec. 1. The board of supervisors of any county holding in trust the property of any agricultural society organized under any law of this state for the purpose of the holding and maintaining of agricultural, industrial and mechanical fairs, is hereby authorized and empowered to purchase and acquire, from such agricultural society, all the beneficial right, title and interest of such agricultural society, in and to any or all of the lands, or property, so held in trust by such county, and to thereafter have and hold said lands and property in fee simple and free from such trust.

HISTORY: CL 1929, 1169;—CL 1948, 46.131.

Act 36, 1917, p. 62; Eff. Aug. 10.

AN ACT authorizing the board of supervisors in a county owning its own fair grounds to make appropriations for the construction and maintenance of buildings, fences and driveways on said fair grounds.

The People of the State of Michigan enact:

46.141 Fairgrounds; appropriations by board of supervisors for improvements.

Sec. 1. The board of supervisors in any county owning its own fair grounds is hereby authorized to make appropriations for the construction and maintenance of buildings, fences and driveways on said fair grounds.

HISTORY: CL 1929, 1170;—CL 1948, 46.141.

Act 11, 1929, p. 27; Imd. Eff. Mar. 25.

AN ACT authorizing boards of supervisors, in counties where the title to fairgrounds is held by the county, to take over the management and control for the purpose of conducting agricultural fairs thereon, and to provide for the spreading of a tax for same.

The People of the State of Michigan enact:

46.151 Fair; management and control by board of supervisors.

Sec. 1. In any county where the title to property occupied and used as an agricultural fair is in the county, the board of supervisors is hereby authorized to take over the management and control of said fair and operate the same under such rules and regulations as they may determine.

HISTORY: CL 1929, 1171;—CL 1948, 46.151.

46.152 Fair board; appointment by board of supervisors.

Sec. 2. For the purpose of carrying out the provisions of this act, the said board is hereby authorized to appoint a committee of its members or other residents of the

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county, which shall be known as a fair board, and shall have control of the operation and management of the fair held in such county.

HISTORY: CL 1929, 1172;—CL 1948, 46.152.

46.153 Fair; rules and regulations for management and control; admission charge, tax levy.

Sec. 3. The said board of supervisors is hereby authorized to make such rules and regulations governing the control and management of said fair as in their judgment may be necessary and proper to properly carry out the purposes for which such fair is being held, and may provide what, if any, admission shall be charged, and may raise by tax not more than 1/10 of 1 mill on the assessment roll of said county for the purpose of paying the necessary expenses of said fair.

HISTORY: CL 1929, 1173;—CL 1948, 46.153.

Act 88, 1913, p. 127; Eff. Aug. 14.

AN ACT empowering the board of supervisors of any of the several counties of the state of Michigan to levy a special tax, or by appropriating from the general fund for the purpose of advertising the agricultural advantages of the state or for displaying the products and industries of any county in the state at domestic or foreign expositions, for the purpose of encouraging immigration and increasing trade in the products of the state, and advertising the state and any portion thereof for tourists and resorters, and to permit the boards of supervisors out of any sum so raised, or out of the general fund, to contribute all or any portion of the same to any development board or bureau to be by said board or bureau expended for the purposes herein named. Am. 1921, p. 98, Act 63, Eff. Aug. 18;—Am. 1927, p. 564, Act 305, Eff. Sep. 5.

The People of the State of Michigan enact:

46.161 Advertisement of state or county agricultural, industrial, trade or tourist advantages; tax levy or appropriation by board of supervisors.

Sec. 1. The boards of supervisors of the several counties may levy a special tax on the taxable property within their respective counties for the purpose of creating a fund; or appropriate out of the general fund an amount to be used for advertising agricultural or industrial advantages of the state or county or any part of the state, or for collecting, preparing or maintaining an exhibition of the products and industries of the county at any domestic or foreign exposition, for the purpose of encouraging immigration and increasing the trade in the products of Michigan, or advertising the state and any portion thereof for tourists and resorters. The total tax levied in any one year shall not exceed 5 cents on each $100.00 of taxable property within the county according to the assessment rolls. The sums so raised or appropriated out of the general fund shall be used as directed by the board of supervisors. The board of supervisors may appropriate the sum so raised by special tax, or appropriated out of the general fund, or any part of the same to the support and work and maintenance of a legal association, development bureau or board organized under the laws of Michigan, not organized or conducted for profit, and which is engaged in the purpose of advertising the advantages of and encouraging immigration, and increasing the trade of the county and other adjoining counties of the state.

HISTORY: CL 1915, 2315;—Am. 1921, p. 98, Act 63, Eff. Aug. 18;—Am. 1927, p. 564, Act 305, Eff. Sept. 5;—CL 1929, 1174;—CL 1948, 46.161;—Am. 1958, p. 88, Act 80, Eff. Sep. 13;—Am. 1961, p. 38, Act 38, Eff. Sep. 8.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 2316;—CL 1929, 1175;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 124, 1911.

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Act 342, 1939, p. 894; Eff. Sep. 29.

AN ACT to authorize counties to establish and provide connecting water, sewer and/or sewage disposal improvements and services within or between cities, villages, townships and township improvement districts, or any duly authorized and established combinations thereof, within or without the county, and to establish and provide garbage and/or rubbish collection and disposal facilities and services for such units of government or combinations thereof, and for such purposes to a acquire, purchase, construct, own, maintain and/or operate water mains and trunk and connecting lines, water pumping and purification plants, sewers, sewage interceptors, sewage disposal plants, settling basins, screens and meters, and incinerators and disposal grounds; to authorize counties to establish, administer, coordinate and regulate a system or systems of water, sewer and/or sewage disposal improvements and services, and garbage and rubbish collection and disposal facilities and services, within or between such units of government; to provide methods for obtaining money for the aforesaid purposes; to authorize counties to extend by laterals and connections, and to construct, improve, repair, manage and/or operate water, sewer and/or sewage disposal improvements and garbage and rubbish collection and disposal facilities and services of and situated within such cities, villages, townships and township improvement districts or any duly authorized and established combination thereof, and provide for the loan of money to such units of government for said purposes and the repayment thereof by agreements therefor; to provide methods for collection of rates, charges and/or assessments. Am. 1941, p. 611, Act 353, Eff. Jan. 10, 1942;—Am. 1953, p. 242, Act 186, Imd. Eff. Jun. 9.

The People of the State of Michigan enact:

46.171 County water and sewage disposal systems, garbage and rubbish collection; establishment, acquisition of facilities; definitions.

Sec. 1. The board of supervisors of any county may, by resolution adopted by a majority vote of its members-elect at any regular or special session of said board, authorize and direct that there be established a system or systems of water, sewer and/or sewage disposal improvements and services and garbage and/or rubbish collection and disposal facilities and services within or between cities, villages, townships and township improvement districts, or any duly authorized and established combinations thereof, within or without the county, and mains, trunks, connecting lines and disposal facilities therefor. For such purposes the agency of the county hereinafter designated shall locate, acquire, purchase, construct, own, maintain and/or operate water mains and trunks and connecting lines, water pumping and purification plants, sewers, sewage interceptors, sewage disposal plants, settling basins, screens and meters, and incinerators and disposal grounds and facilities, as shall be described in maps, plans and specifications therefor and be approved by the board of supervisors and/or contract with any such units of government, or any duly authorized and established combinations thereof for the purchase of water and for the use of their sewers and sewage disposal plants and garbage and/or rubbish collection and disposal facilities and services. Any county is authorized to establish, construct, administer, coordinate and regulate systems for water, sewer and sewage disposal improvements and services within or between, and garbage and rubbish collection and disposal facilities and services for, such units of government.

The term "sewers" as used in this act shall be defined as including interceptor sewers for the transportation of either sewage or storm water or both sewage and storm water, storm sewers, sanitary sewers, combined sanitary and storm sewers and all in-

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strumentalities, facilities and properties used or useful in connection with the collection of sewage and/or storm water.

The term "garbage and/or rubbish collection and disposal facilities" as used in this act shall be defined as including incinerators, disposal grounds and all instrumentalities, facilities and properties used or useful in connection with the collection and disposal of garbage and rubbish.

The term "unit of government" or "units of government" as used in this act, shall be defined as including cities, villages, townships, township improvement districts and any duly authorized and established combinations thereof within or without the county establishing any of the improvements, facilities or services authorized under this act.

The terms "improvements", "facilities" and "services" as used in this act shall mean any of the improvements, facilities and services authorized under the provisions of this section.

HISTORY: Am. 1941, p. 611, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.171;—Am. 1952, p. 83, Act 74, Eff. Sep. 18;—Am. 1953, p. 243, Act 186, Imd. Eff. Jun. 9.

46.171a County public improvements; short title.

Sec. 1a. This act shall be known and may be cited as the "County Public Improvement Act of 1939".

HISTORY: Add. 1963, p. 3, Act 1, Imd. Eff. Feb. 26.

46.172 County public improvements; contracts with governmental units, loans.

Sec. 2. Any county having determined to establish and provide any of the improvements, facilities and services authorized under the provisions of section 1 hereof, is further authorized to extend by laterals and connections, and to improve, repair, manage and/or operate any such improvements, facilities and service of and situated within any units of government by terms of agreements therefor to be entered into between such county and said units of government, and subject to the conditions hereinafter provided.

Such county may loan money to such units of government for said purposes and obtain repayment thereof by agreement therefor and subject to the conditions hereinafter provided.

HISTORY: CL 1948, 46.172;—Am. 1953, p. 244, Act 186, Imd. Eff. Jun. 9.

46.173 County public improvements; water, sewage disposal, garbage and rubbish collection; county agency, designation, powers and duties.

Sec. 3. Whenever the board of supervisors of any county shall have determined to establish and provide any of the improvements, facilities or services hereinbefore authorized, it shall designate the "county agency" therefor which shall be the board of county road commissioners or the drain commissioner of the county as may be determined by resolution of the board of supervisors. In counties having a population of more than 1,000,000, the board of supervisors may designate as the county agency the board of county road commissioners, the drain commissioner or the board of public works of the county as may be determined by resolution of the board of supervisors. Before commencing any such improvements, facilities or services, or entering into any contract with any other unit of government for supply or use of any such improvements, facilities and services, the county agency shall prepare or obtain from competent sources and file with the board of supervisors, maps, plans, designs, specifications and estimates of the proposed improvements or facilities. The county agency shall have supervision and control of the management and operation of all improvements, facilities and services established under the provisions of this act and further shall have the following duties and powers: To make and execute proposed alterations, changes

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and extensions of the improvements, facilities or services authorized herein; to locate, acquire, purchase, construct, alter, repair, maintain and operate the improvements, facilities and services authorized herein and enter into and execute contracts therefor; to obtain or prepare data for and determine rates, charges and/or assessments to be imposed and collected for any improvements, facilities and services authorized herein; to review and make adjustments of rates, charges and assessments where the same are deemed excessive or inadequate; to engage consultants, assistants, attorneys and employees; to act as the applicant, agents or sponsor for the county in the borrowing or loaning of money, issuing of notes or bonds and receiving of any gift or grant of funds or property for the purposes authorized herein; to enter into and execute agreements with units of government, for the use of any such improvements, facilities or services and the collection of rates, charges and/or assessments; and to make all necessary rules and regulations governing the use and operation of such improvements, facilities or services.

HISTORY: Am. 1941, p. 611, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.173;—Am. 1953, p. 244, Act 186, Imd. Eff. Jun. 9;—Am. 1961, p. 360, Act 213, Eff. Sep. 8.

46.174 County public improvements; rates, charges or assessments for services, determination by county agency.

Sec. 4. Whenever the board of supervisors of any county has authorized and directed the establishment of any of the improvements, facilities or services authorized by this act, the county agency shall establish just, equitable and uniform rates, charges and/or assessments to be paid to such county for the services rendered thereby. The complete and actual cost of improvements and financing thereof may be included in the amounts fixed for rates, charges and/or assessments for services rendered by the county. The legislative intent is herein expressed that the rates, charges and/or assessments to be collected by the county constitutes revenue and not a debt or tax of the county, and the amount thereof shall not be subject to or limited by article X, section 21, constitution of the state of Michigan and statutes applicable thereto. Where the improvements or facilities are to be acquired, constructed and financed pursuant to the provisions of sections 5a, 5b and 5c of this act, such rates, charges, and/or assessments for services rendered by the improvements or facilities shall be levied in an amount sufficient to cover all operation and maintenance costs with provision for reasonable reserves for repair and replacement.

HISTORY: Am. 1941, p. 612, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.174;—Am. 1952, p. 83, Act 74, Eff. Sep. 18;—Am. 1953, p. 244, Act 186, Imd. Eff. Jun. 9.

46.175 Agreements with governmental units for services; rates, charges or assessments, levy and collection; delinquency to be lien, enforcement.

Sec. 5. The county agency and any unit of government may enter into agreements for a term up to but not exceeding 40 years whereby the unit of government shall pay the county for the services provided by any improvements and facilities authorized by the provisions of this act, including the cost of construction and maintenance of the same, from funds collected as rates, charges or assessments from the users and beneficiaries of such improvements, facilities and services, or from any other fund available which may be validly used for such purposes. Any contracting unit of government may raise the amounts required to be paid under such agreements by collecting tapping charges, and rates, charges or assessments from the users and beneficiaries of such improvements, facilities and services within that unit of government, or by levy upon the taxable property of any contracting city, village, township or township improvement district in accordance with the same procedure as provided under the general tax laws of the state. The county agency may also enter into agreements with units of government providing that the county agency shall collect the tapping charges, and rates, charges or assessments for the services furnished, directly from the users and benefici-

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aries thereof. The county agency may enter into similar agreements with the county drain commissioner on behalf of any drain district, or with the drainage board on behalf of any inter-county drainage district, for the connection of any drain with any county sewer or sewage disposal system and for the collection by the county of tapping charges, rates and charges for the services of such county system from the users or beneficiaries thereof through connection with such drain. The county agency or such units of government in accordance with such agreements shall have the right to shut off such services and deny the use of such improvements or facilities to any user or beneficiary thereof failing to pay any of the rates, charges or assessments as fixed. Such rates, charges or assessments for water, sewage and sewage disposal services may be fixed in accordance with the amount of water used as measured by water meter readings or by such other methods as may be deemed equitable. Any such rates, charges or assessments shall constitute a lien on the premises served, effective immediately upon the rendering of services thereto and the official records of the agency charged with the collection thereof constitute notice of the pendency of the lien. Any such rates, charges or assessments remaining unpaid and delinquent for a period of 6 months or more may be certified by the agency charged with the collection thereof to the tax assessing officer or agency of the taxing district wherein the lands served are located and shall then be entered upon the county tax rolls against the premises to which such services shall have been rendered. The same shall be collected and the lien shall be enforced in accordance with the provisions of the general tax laws of the state.

HISTORY: Am. 1941, p. 612, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.175;—Am. 1953, p. 245, Act 186, Imd. Eff. Jun. 9;—Am. 1961, p. 360, Act 213, Eff. Sep. 8.

46.175a Contracts with city, village or township; fund raising methods; contract provisions.

Sec. 5a. As an additional or alternative method of acquiring and constructing any of the improvements or facilities authorized by this act, the county agency and any city, village or township are authorized to enter into contracts providing for the acquisition, construction and financing of improvements or facilities in the manner herein authorized. The contracts shall provide for the allocation and payment of the share of the total cost thereof to be borne by each city, village or township in annual installments for a period of not exceeding 40 years, and each contracting city, village or township is authorized to pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contracts. For the purpose of making payment of its pledged share of the cost of such improvements or facilities, any contracting city, village or township is authorized to use any, or all, or any combination of the following methods of raising funds necessary therefor: (a) The levy of a tax on taxable property in the city, village or township, which tax, as to any municipal corporation, shall not be subject to any charter or statutory tax limitation; (b) the levy of special assessments on property benefited by such improvements, the procedures relative to the making and collection of such special assessments to conform as near as may be to applicable charter or statutory provisions therefor; (c) the levy and collection of rates or charges to users and beneficiaries of the service or services furnished by the improvement; (d) from moneys received or to be received derived from the imposition of taxes by the state, except as the use of such money for such purpose is expressly prohibited by the state constitution; and (e) from any other funds which may be validly used for such purpose. The contracts may provide for any and all matters relating to the acquisition, construction and financing of the improvements or facilities as are deemed necessary, including the authority to the county agency to issue bonds secured by the full faith and credit contractual pledges of the contracting city, village or township, as authorized by section 5c of this act. The contracts may provide for appropriate remedies in case of default, including, but not limited to, the right of the contracting cities, villages

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or townships to authorize the county treasurer or other official charged with the disbursement of funds derived from the state sales tax levy under the provisions of Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948, and returnable to said governmental units pursuant to section 23, article X of the Michigan constitution, to withhold sufficient funds to make up any default or deficiency in funds.

HISTORY: Add. 1952, p. 83, Act 74, Eff. Sep. 18;—Am. 1953, p. 245, Act 186, Imd. Eff. Jun. 9;—Am. 1961, p. 361, Act 213, Eff. Sep. 8.

46.175b Contracts; city, village or township resolution, publication; petition for referendum, verification, special election; refunding of outstanding bonds.

Sec. 5b. Any city, village or township desiring to enter into a contract under the provisions of section 5a hereof shall authorize, by resolution of its governing body, the execution of such contract, which resolution shall be published in some newspaper of general circulation within such city, village or township, and such contract may be executed without a vote of the electors thereon upon the expiration of 30 days after the date of such publication unless, within said 30 day period, a petition signed by not less than 10 per centum of the registered electors residing within the limits of such city, village or township shall have been filed with the clerk thereof requesting a referendum upon the execution of such contract, and in that event such contract shall not be executed until approved by the vote of a majority of the electors of such city, village or township qualified to vote and voting thereon at a general or special election to be held not more than 90 days after the filing of such petition. Whenever any such contract is to be entered into by any township only on behalf of the unincorporated area of the township, only the registered electors residing within the unincorporated area of the township shall be qualified to sign such petition and vote at such election.

Any special election called for such purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any such petition shall be verified by some person or persons under oath, as the actual signatures of the persons whose names are signed thereto, and the clerk of the city, village or township shall have the same power to reject signatures as city clerks under the provisions of section 25 of Act No. 279 of the Public Acts of 1909, as amended. The number of registered electors in any city, village or township shall be determined by the city, village or township registration books.

Where any contracting city, village or township has outstanding any revenue bonds issued under the provisions of Act 94, Public Acts of Michigan 1933, as amended, for the type of improvements or facilities to be constructed pursuant to this act and the contract, such contract may provide for the refunding of said outstanding bonds and the inclusion, in the total financing required for the construction of the improvements or facilities contemplated by this act of an amount sufficient to provide for said refunding, including such call premiums as may be required in the ordinance authorizing their issuance: Provided, however, That nothing herein contained shall be construed as authorizing the refunding of non-callable unmatured bonds without the consent of the holder or holders thereof. Where such refunding is provided for by the contract, any bonds issued pursuant to section 5(c) of this act may be issued and sold in a sufficient amount to provide additional funds over and above acquisition and construction costs of the new improvements or facilities to enable the contracting city, village or township to retire such outstanding revenue bonds.

HISTORY: Add. 1952, p. 84, Act 74, Eff. Sep. 18;—Am. 1953, p. 246, Act 186, Imd. Eff. Jun. 9.

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46.175c Contracts; county issuance of bonds, additional security; advancements, reimbursement, terms; validation of prior drain orders or bonds.

Sec. 5c. For the purpose of obtaining funds for the acquisition and construction of the improvements or facilities authorized by this act, the county after the execution of the contract or contracts authorized by sections 5a and 5b of this act, upon ordinance or resolution adopted by its board of supervisors, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting city, village and township pursuant to authorization contained in this act and the contract or contracts entered into pursuant to said sections 5a and 5b. Said bonds shall be serial bonds, payable in annual installments, for a period of years not exceeding 40 and shall be issued and sold, subject to all other applicable provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, including the requirement that the permission of the commission shall be given to the issuance of bonds, but bonds heretofore issued under this section shall be valid notwithstanding the lack of such permission. Said bonds shall not pledge the full faith and credit of the issuing county except as hereinafter provided. As additional security for the payment of the principal of and interest on any bonds issued under the provisions of this section, any issuing county may, upon proper resolution adopted by a majority vote of the members-elect of its board of supervisors, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on such bonds. In the event the county shall be required to advance any money by reason of such pledge on account of the delinquency of any contracting city, village or township then it shall be mandatory for the county treasurer to deduct and withhold from any moneys the use of which is not specifically restricted for other purposes by law and which shall subsequently come into his hands belonging to such delinquent city, village or township, an amount sufficient to reimburse the county for any such advancement, but the county treasurer shall not withhold in any one year a sum greater than 25% of the total amount owed the county by such delinquent city, village or township on account of such advancements. Such moneys, when so withheld by the county treasurer, shall be paid into the general fund of the county. The right of deduction given the county by this statute shall not operate to limit the county's right to pursue any other legal remedies for the reimbursement of moneys advanced hereunder. The ordinance or resolution authorizing the issuance of said bonds shall have embodied therein the terms of the contract or contracts authorized by sections 5a and 5b of this act. The provisions of sections 5a, 5b and 5c of this act shall be construed as an additional and alternative method for the acquisition, construction and financing of the improvements or facilities contemplated by this act, and shall not affect the other provisions of this act relating thereto. Any improvements and facilities contemplated by this act may be acquired, constructed and financed in part under the provisions of sections 5a, 5b and 5c and in part under other sections of this act. This act shall not validate any drain orders or bonds issued prior to April 30, 1954.

HISTORY: Add. 1952, p. 84, Act 74, Eff. Sep. 18;—Am. 1953, p. 247, Act 186, Imd. Eff. Jun. 9;—Am. 1954, p. 378, Act 161, Imd. Eff. Apr. 30;—Am. 1957, p. 161, Act 138, Imd. Eff. May 28;—Am. 1963, p. 3, Act 1, Imd. Eff. Feb. 26.

46.176 Board of review; designation by board of supervisors; hearing, review, and adjustment of rates, charges and assessments; meetings, time and place, notice.

Sec. 6. The board of supervisors shall designate either a committee selected from its membership or the board of auditors, in counties having boards of auditors, to be constituted a board of review for the purpose of hearing and reviewing rates, charges and/or assessments. At the request of any unit of government, person, firm or corporation, charged for services rendered by any county acting under the provisions hereof, and on sufficient cause being shown, or upon information presented to or obtained by

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said board of review of the respective county, the action of the county agency in fixing or adjusting charges and/or assessments shall be reviewed and finally determined by said board of review: Provided, That such charges and/or assessments shall in all cases be sufficient to pay operating expenses of the system and to meet sinking fund and interest requirements on bonds and to meet principal and interest payments on notes if any, and any other requirements under which such bonds or notes may be issued. The board of review shall adjust and correct rates, charges and/or assessments in order that the same shall be just and equitable. The board of review shall meet at the room of the board of supervisors in the county building on the second Monday in May and September of each year, at 3:00 o'clock in the afternoon and continue in session during the day until 5:00 o'clock in the afternoon thereof and during the same hours of the 2 days following. Additional time for hearings may be granted by the board of review. Notice of hearings to be held by the board of review shall be prepared by such board and posted at 2 public places in each municipality where rates, charges and/or assessments are charged or assessed in pursuance hereof, at least 7 days prior to the second Monday in May and September.

HISTORY: Am. 1941, p. 613, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.176;—Am. 1953, p. 247, Act 186, Imd. Eff. Jun. 9.

46.177 Self-liquidating revenue bonds; issuance; county liability, petition, referendum; reimbursement of county; permission of municipal finance commission.

Sec. 7. For the purpose of obtaining money for locating, acquiring, purchasing, establishing, constructing, extending, improving or repairing any of the improvements, facilities or services authorized by this act, the county upon ordinance adopted by the board of supervisors may issue self-liquidating revenue bonds, and may issue refunding bonds for the payment or retirement of any such bonds previously issued by it for any such purposes. The bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 10 years from the date of issuance, and the last of which shall fall due not more than 40 years from the date of issuance, and no maturity after 10 years from date of issuance shall be less than 1/5 the amount of any subsequent maturity. Except as herein otherwise provided, the bonds shall be issued in accordance with the applicable provisions and procedures of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948. Except to the extent herein authorized such bonds shall not impose any liability upon the county but shall be secured only by the revenues of such improvements or facilities. As additional security for the payment of the principal of and interest on any revenue bonds issued pursuant to the provisions of this section, any issuing county, upon proper resolution adopted by a 2/3 vote of all the members of its board of supervisors, irrevocably may pledge the full faith and credit of the county for the prompt payment of the principal of and interest on such bonds. If a petition for a referendum on the matter of said pledge shall be filed with the county clerk within 60 days after the vote of the board of supervisors thereon, signed by 10% of the electors in the county who voted for governor at the last presidential election, then said full faith and credit pledge shall cease to be effective until such time as the same has been approved by a majority of the electors of the county qualified under section 4, article 3 of the constitution, voting thereon at a regular or special election. The county shall be reimbursed for any moneys paid by reason of such pledge out of the first revenues available therefor not necessary to meet the requirements established in the ordinance authorizing the issuance of the revenue bonds. Such bonds shall be issued and sold in accordance with the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, including the requirement that the permission of the commission shall be given to the issuance of bonds.

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Sale of bonds; trust agreement.

Any bonds issued hereunder for the purpose of locating, acquiring, purchasing, constructing, extending, improving or repairing sewer or sewage disposal improvements may be sold to the federal government or any agency thereof at private sale and without a public offering. Where such a contract is for the sale of less than all of the bonds authorized, then no such part shall be delivered until the balance of the bonds so authorized shall have been sold in the manner hereinbefore provided. Also, for the aforesaid purposes the board of supervisors may borrow money and issue notes therefor, secured and payable only from the revenues of the improvements, facilities or services authorized herein. The holders of the bonds or coupons or notes shall have the like remedies for the enforcement of same as provided in the case of revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as amended. The county agency may in its discretion enter into a trust agreement with any bank or trust company duly qualified to administer trusts in the state for the purpose of securing the payment of said bonds and coupons. Such agreement shall provide for payment to the trustee designated in such agreement out of the gross revenues of the system, a sufficient amount each month to provide for the payment of the principal and interest upon the bonds as the same become due and payable. Nothing in this act contained shall authorize such county agency to create any liability of any kind upon any such county, except in the manner hereinbefore provided.

HISTORY: Am. 1941, p. 614, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.177;—Am. 1949, p. 254, Act 221, Eff. Sep. 23;—Am. 1953, p. 247, Act 186, Imd. Eff. Jun. 9;—Am. 1961, p. 362, Act 213, Eff. Sep. 8;—Am. 1963, p. 4, Act 1, Imd. Eff. Feb. 28.

46.178 County agency; appropriations for administrative expenses; revolving fund.

Sec. 8. The board of supervisors of any county operating under the provisions of this act, may by a two-thirds vote of its members elect appropriate and there shall be paid from its general funds such sums as are determined by said board to be necessary for administrative expenses incurred by the county agency in the performance of its duties and powers authorized by this act and for purposes of obtaining maps, plans, designs, specifications and cost estimates of proposed improvements or facilities. The board of supervisors of any county operating under this act may by a two-thirds vote of its members elect make appropriations from the general fund of such county to be segregated as a revolving fund which may be used to finance and pay for such improvements or facilities as are authorized herein to be disbursed and expended by the county agency.

HISTORY: Am. 1941, p. 614, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.178;—Am. 1953, p. 248, Act 186, Imd. Eff. Jun. 9.

46.179 Advancements and loans to governmental units; conditions, provision for payment; maximum.

Sec. 9. In the event that the board of supervisors of any county having established any of the improvements or facilities authorized by this act determines that any city, village, township or township improvement district is in need of extensions, improvements or repairs to such improvements and facilities of and within such units of government, such board of supervisors by a two-thirds majority vote of its members elect is authorized to appropriate, advance and loan to and by agreement with such unit of government from the general funds of the county, such sums as are necessary to provide such extensions, improvements or repairs. The board of supervisors may, by resolution adopted by a two-thirds majority vote of its members elect, make such advance and loan on condition that the legislative body of the unit of government borrowing and receiving said sum shall enter into an agreement therefor and approve such advance and loan by a two-thirds vote of its members elect. Any sum to be borrowed for the benefit of a township improvement district shall be authorized by action of the township board in the township where said district is situated. No such loan shall be

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made by the board of supervisors without there first being irrevocably pledged to the payment thereof current or delinquent taxes evidenced by promissory notes paying interest at not to exceed 5 per cent per annum and maturing within a period of 10 years: Provided, The total sum advanced and loaned to any such unit of government for 1 or more of the improvements or facilities authorized herein shall not, in total amount, exceed 10 per cent of its current taxes and 80 per cent of all its delinquent taxes, and current and/or delinquent taxes pledged shall not exceed said amount. Such advances and loans are authorized irrespective of the amount of tax delinquency of the unit of government borrowing money for the purpose herein provided, and shall not require the approval of the state loan board, the public debt commission or any other state authority.

HISTORY: Am. 1941, p. 615, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.179;—Am. 1953, p. 248, Act 186, Imd. Eff. Jun. 9.

46.180 Advancements and loans to governmental units; approval of county board of auditors; expenditures for construction, approval; disbursement by county agency.

Sec. 10. In counties having a board of auditors, the advance or loan of any money to any city, village, township or township improvement district for purposes of constructing or acquiring any of the improvements or facilities authorized herein, shall be made conditioned upon the approval of the board of auditors. The board of auditors shall audit the financial records and accounts for the construction or acquisition of any improvements or facilities by the county authorized herein. All funds for the purchase of land, construction, acquisition, maintenance and operation of improvements or facilities authorized by the board of supervisors shall be disbursed by direction of the county agency and be approved by the board of auditors and paid by the county treasurer. In counties having no board of auditors, the board of supervisors shall perform the duties designated herein for the board of auditors.

HISTORY: Am. 1941, p. 615, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.180;—Am. 1953, p. 249, Act 186, Imd. Eff. Jun. 9.

46.181 Collection service charge; enforcement.

Sec. 11. The collection service charge authorized herein in terms of rates, charges or assessments to be fixed and collected by the county, and notes for money advanced and loaned by the county may be enforced by such county in case of default in payment thereof as herein provided, and/or by action in mandamus, assumpsit or any other remedy prescribed by law.

HISTORY: CL 1948, 46.181.

46.182 Public improvements; permit from city or village legislative body not required.

Sec. 12. The construction or acquisition of any improvements or facilities in accordance with the provisions of this act, shall not be subject to the requirements and provisions of Act No. 261, Public Acts of Michigan, 1927.

HISTORY: CL 1948, 46.182;—Am. 1953, p. 249, Act 186, Imd. Eff. Jun. 9.

46.183 Construction of act.

Sec. 13. This act being necessary for and to secure the public health, safety and welfare of the counties, cities, villages, townships and township improvement districts of the state of Michigan, shall be liberally construed to effect the provisions hereof.

HISTORY: CL 1948, 46.183.

46.184 County agency; purchase, acceptance or condemnation of property; provisions applicable.

Sec. 14. The county agency of any county, for purposes of exercising the authority herein granted to such county, may purchase, accept as a gift, or condemn private property determined by said county agency to be necessary therefor and for the public

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use. If by condemnation the provisions of Act No. 149 of the Public Acts of Michigan of the year 1911, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms 'public corporations,' 'state agencies' and 'private property' as used herein," or such other appropriate provisions therefor as exists or shall be made by law may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings.

HISTORY: Am. 1941, p. 615, Act 353, Eff. Jan. 10, 1942;—CL 1948, 46.184;—Am. 1953, p. 249, Act 186, Imd. Eff. Jun. 9.

46.185 Authority of act additional.

Sec. 15. The authority hereby given shall be in addition to and not in derogation of any power existing in any of the counties, cities, villages and townships under any statutory or charter provisions which they may now have or may hereafter adopt.

HISTORY: CL 1948, 46.185.

46.186 Township board; action on behalf of partially incorporated city, effect.

Sec. 16. Whenever all or any part of a township has been incorporated as a city and the incorporation of such city has not been completed by the adoption of a charter therefor, then the township board may act hereunder on behalf of both the city and the remainder of the township, either jointly or severally, and for the purposes of this act shall be deemed to be the governing body of such city as well as that of the township. Pending the adoption of such charter, any duty imposed by the provisions of this act upon an officer or governing body of the city, shall be performed by the corresponding officer or governing body of the township, and all papers, documents and notices may be served upon the township clerk. In event of a referendum upon a contract entered into by the township board solely on behalf of such a city, then only the registered electors residing within the city incorporated territory shall be qualified to sign the petition therefor and to vote at the election. The township registration records shall be used unless there shall have been a previous registration of electors in the city. In the event that the city incorporated territory should revert to the township status by reason of the failure to adopt a charter for said city, then any action taken by the township board on behalf of such city shall be binding upon the township.

HISTORY: Add. 1956, p. 135, Act 49, Imd. Eff. Apr. 2.

Original section 16 of Act 342 of 1939, p. 894, was a severing clause section and was repealed by Act 267 of 1945.

46.187 Joint action by adjoining counties; administrative agency, establishment, powers and duties; issuance of bonds.

Sec. 17. Any 2 or more adjoining counties which have, by resolution of their respective boards of supervisors, authorized and directed the establishment of any of the improvements, facilities or services authorized by this act, may contract for the joint establishment, operation or maintenance of any such improvements, facilities or services, or any portion thereof. Such contract shall provide for the establishment of an administrative agency to be composed from the membership of the respective county agencies, and such administrative agency shall have and exercise all the powers and duties conferred upon a county agency under the provisions of this act, except as the same may be specifically limited by the provisions of said contract.

Any bonds issued to finance the construction of improvements under such contract shall be the joint obligation of all participating counties.

HISTORY: Add. 1956, p. 135, Act 49, Imd. Eff. Apr. 2.

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Act 58, 1945, p. 55; Imd. Eff. Mar. 21.

AN ACT to authorize the board of supervisors to establish and maintain parking lots, and promulgate rules and regulations, for the operation of such parking lots.

The People of the State of Michigan enact:

46.201 County parking lots; maintenance by board of supervisors; rules and regulations, violation, penalties.

Sec. 1. The board of supervisors of any county of this state is empowered to maintain and regulate parking lots on land owned by the county and to enact such rules and regulations for the safe and proper use of said parking lots for the general public as in their discretion seems best, including the charging of fees for parking, the placing of traffic signs, signals, parking gates, meters and other controls and the direction and establishment of time parking zone spaces where parking signs, signals, meters, gates or other devices and controls may be installed, and may establish penalties for the violation of the rules and regulations, not to exceed a fine of $10.00 or 10 days in the county jail for violation of the rules established by the board of supervisors. The provisions of this amendatory act shall not apply to any county or regional park now in existence or to be established. Violations of the rules and regulations made in accordance with this act may be treated as a nuisance and abated by a police officer by impoundment of the vehicle involved, by notice of violation or by removal to a designated motor vehicle pound to be returned only upon payment of reasonable impoundment fees. Any court of original jurisdiction may issue a warrant for the arrest of any person violating any rule or regulation made in accordance with this act upon complaint by an officer of the county. Trial shall be held in the manner applicable by law or rule to misdemeanors.

HISTORY: CL 1948, 46.201;—Am. 1966, p. 132, Act 113, Imd. Eff. Jun. 22.

46.211, 46.212 Repealed. 1957, p. 238, Act 188, Eff. Sep. 27.

Sections authorized boards of supervisors to appropriate funds for centennial celebrations.

46.221 Repealed. 1957, p. 173, Act 151, Eff. Sep. 27.

Section authorized boards of supervisors to appropriate money for marking historical sites.

Act 254, 1919, p. 452; Eff. Aug. 14.

AN ACT to authorize boards of supervisors to raise money for the collection, publication, housing or displaying of historical material, bearing upon their county and to foster the historical interest thereof. Am. 1941, p. 41, Act 46, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

46.231 County historical interests; appropriations by board of supervisors.

Sec. 1. The board of supervisors of any county in this state is hereby authorized to raise and appropriate money for the purpose of fostering any activity or project which in the opinion of the board tends to advance the historical interests of the county.

HISTORY: CL 1929, 1179;—Am. 1941, p. 41, Act 46, Eff. Jan. 10, 1942;—Am. 1947, p. 37, Act 29, Eff. Oct. 11;—CL 1948, 46.231;—Am. 1956, p. 30, Act 24, Eff. Aug. 11;—Am. 1957, p. 173, Act 152, Eff. Sep. 27.

Act 190, 1867, p. 261; Eff. Jun. 27.

AN ACT to provide for copying and binding mutilated assessment rolls and other papers.

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The People of the State of Michigan enact:

46.241 Mutilated archives; preservation, copying and binding.

Sec. 1. That whenever, in the opinion of the board of supervisors of any county in this state, from the defaced or mutilated condition of any assessment rolls, returns of township treasurers, or other papers, on file, under the provisions of law, in the office of the treasurer of such county, and for their better preservation, it shall be necessary that the same be copied or bound or both, that it shall be lawful and shall be the duty of such board of supervisors to authorize and order the copying or binding, or both, of such archives.

HISTORY: CL 1871, 5956;—How. 7534;—CL 1897, 2508;—CL 1915, 2326;—CL 1929, 1180;—CL 1948, 46.241.

46.242 Preservation of mutilated archives; supervision by county treasurer; employment of copyist, oath; certification of copies.

Sec. 2. Whenever the board of supervisors of any county shall order the copying of any rolls or other papers, as provided in section 1 of this act, the treasurer of such county shall have the supervision of such work, and shall employ some proper person or persons to perform the same, who shall, before entering upon the discharge of such duty, subscribe an oath to perform the same, in a true and faithful manner; and it shall be the duty of such county treasurer to compare all rolls or papers so copied, with the originals, and shall attach to each separate copy, roll, or other paper, his certificate that the same is a true copy of the original roll, or other paper, and that such copy was made by a person duly authorized under the provisions of law to make the same.

HISTORY: CL 1871, 5957;—How. 7535;—CL 1897, 2509;—CL 1915, 2327;—CL 1929, 1181;—CL 1948, 46.242.

46.243 Copies of archives; admissible as evidence.

Sec. 3. Any copy of any assessment roll, tax roll, township treasurer's return or other paper, made and certified under the provisions of this act, shall be valid and lawful as evidence in any court as the original would have been.

HISTORY: CL 1871, 5958;—How. 7536;—CL 1897, 2510;—CL 1915, 2328;—CL 1929, 1182;—CL 1948, 46.243.

Act 176, 1937, p. 270; Eff. Oct. 29.

AN ACT to protect the welfare and safety of the people of this state; to provide for the care of persons injured on the highways of this state; and to fix the liability of the county therefor.

The People of the State of Michigan enact:

46.251 Transportation of persons injured on highways; declaration of necessity.

Sec. 1. The prompt transportation of persons injured on the highways of this state to a hospital or other place where needed medical care and treatment can be rendered is necessary for the protection of the welfare and safety of the people of the state of Michigan.

HISTORY: CL 1948, 46.251.

46.252 Transportation of persons injured on highways; cost, payment by county, reimbursement.

Sec. 2. In case any ambulance shall transport any such person to any hospital or other place where medical care and treatment can be provided, and the person so injured and transported is financially unable to pay for such transportation, and there are no relatives or other persons liable for the care of such person who can pay for such transportation, the cost of such transportation, when approved by the board of supervisors, or the board of county auditors in counties having a board of county audi-

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tors, shall be paid from the general fund of the county, in the same manner as other claims which are a liability of the county are paid from the general fund of the county. The county may maintain an action in assumpsit for reimbursement of any sums paid under the provisions of this act against the person transported at the expense of the county, or against the estate of such person, or against any relative or other person liable for the care of the person transported at the expense of the county, which sums when recovered shall be credited to the general fund of the county.

HISTORY: CL 1948, 46.252.

Act 270, 1968, p. 469; Imd. Eff. Jul. 1.

AN ACT to authorize counties in which are located military installations declared surplus by the United States to create a base closure committee; and to prescribe the membership, powers and duties of a base closure committee.

The People of the State of Michigan enact:

46.271 Surplus military installations; base closure committee, appointment, purpose.

Sec. 1. Whenever the proper authorities of the United States declare that a military installation is surplus and is to be closed, the board of supervisors of the county in which the military installation is located shall appoint a base closure committee to effect an orderly and expedient transition of the military installation from military operations to civilian activities and to establish criteria of use and employment, liaison, coordination of effort and implementation of procedures and fiscal matters by and between local units, federal and state agencies, civic organizations and the public as provided in this act.

HISTORY: New 1968, p. 469, Act 270, Imd. Eff. Jul. 1.

46.272 Base closure committee; membership, compensation and expenses, tenure, vacancies.

Sec. 2. A base closure committee shall consist of the chairman of the board of supervisors, ex officio with vote, and such number of other members, not less than 4 nor more than 6 as determined by the board of supervisors. When a base is wholly contained within a township or a city a member of the board of supervisors representing that township or city shall be appointed to membership on the committee. Members of the committee shall be residents of the state and shall be representative of business, educational institutions, nonprofit associations and other groups having a public interest in the military installation. Members of the committee shall serve without compensation but may be reimbursed for their actual and necessary expenses incurred in carrying out their duties on the committee. Members shall serve until the committee is dissolved unless sooner removed for cause by the board of supervisors. Vacancies for any reason shall be filled by appointment of the board of supervisors.

HISTORY: New 1968, p. 469, Act 270, Imd. Eff. Jul. 1.

46.273 Base closure committee; election of officers, meetings, quorum, employment of personnel.

Sec. 3. (1) The committee shall elect from its own membership a chairman, vice chairman, secretary, treasurer and such other officers as it deems necessary.

(2) The committee shall meet at least once a month and may meet more often on call of the chair or request of a majority of the members. The committee shall fix an appointed time and place for regular meetings and may adjourn when the business of the committee may require. Meetings of the committee shall be open to the public. A

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majority of the committee constitutes a quorum for the transaction of business but approval of a majority of the entire committee is necessary for action by the committee.

(3) The committee may employ experts, consultants and other personnel as it deems necessary to carry out its purposes.

HISTORY: New 1968, p. 469, Act 270, Imd. Eff. Jul. 1.

46.274 Base closure committee; body corporate; signatures on documents; powers.

Sec. 4. A base closure committee is a body corporate which, in that name, may sue and be sued, plead and be impleaded, contract and be contracted with and enjoy and carry out all powers granted it. All contracts, deeds of conveyance and other official papers of the committee shall be signed by the chairman or vice chairman and attested by the secretary. A base closure committee shall have all powers necessary to effectuate its purpose except as specifically restricted or prohibited by the constitution or law. Any grant of power to a base closure committee shall not be construed as a limitation but rather as an extension of the power of the committee.

HISTORY: New 1968, p. 469, Act 270, Imd. Eff. Jul. 1.

46.275 Base closure committee; duties.

Sec. 5. A base closure committee shall:

(a) Formulate sound policy and acceptable implementation procedures.

(b) Investigate, consider, evaluate and coordinate the processing of such proposals as are predicated upon sound economic potentiality and substantial capabilities for future development as are feasible, expedient and consistent with local conditions and practice within the area.

(c) Invest and expend all funds as are available for any project or related program or otherwise belonging to the committee.

HISTORY: New 1968, p. 470, Act 270, Imd. Eff. Jul. 1.

46.276 Base closure committee; contracts with defense department for maintenance of installation.

Sec. 6. A base closure committee may enter into contracts with the department of defense for the maintenance of buildings, grounds, water and sewage systems and other systems and properties of the military installation until such time as final disposition is made.

HISTORY: New 1968, p. 470, Act 270, Imd. Eff. Jul. 1.

46.277 Base closure committee; recommendations to board of supervisors as to acquisition, utilization and disposition of military installation properties.

Sec. 7. A base closure committee may recommend to the board of supervisors:

(a) The acquisition, by any lawful means, of any real or personal property or interest therein, together with the improvements thereon, as an integral part of a proposed plan for the maximum utilization of such properties or the development thereof for the benefit of the public, including recommended financing procedures.

(b) Specific actions to be undertaken by the county within its lawful powers as may be calculated to expedite any feasible plan for development or utilization of the military installation properties.

(c) Concerning matters incident to the sale, lease, exchange, transfer, assignment or other disposition of any real or personal property or interest therein for the purpose of implementing an adopted plan or related development program.

HISTORY: New 1968, p. 470, Act 270, Imd. Eff. Jul. 1.

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46.278 Base closure committee; annual report.

Sec. 8. On or before February 1 in each year, a base closure committee shall file an annual report with the board of supervisors, reflecting its activities, business considered, meetings and progress during the preceding fiscal year ending December 31.

HISTORY: New 1968, p. 470, Act 270, Imd. Eff. Jul. 1.

46.279 Base closure committee; validation of actions.

Sec. 9. Any action heretofore taken by the board of supervisors of any county in creating a base closure committee with powers similar to those granted by this act, and any actions heretofore taken by such a base closure committee not in conflict with this act are validated and confirmed.

HISTORY: New 1968, p. 470, Act 270, Imd. Eff. Jul. 1.

46.280 Base closure committee; duration; dissolution.

Sec. 10. A base closure committee shall continue to function until such time as the military installation is completely converted from military to civilian use or is reactivated by the United States. Upon dissolution of the base closure committee, all property, books, records, files and funds of the committee shall become the property of the county and shall be disposed of in the manner prescribed by the board of supervisors.

HISTORY: New 1968, p. 470, Act 270, Imd. Eff. Jul. 1.

46.281 Counties to which applicable.

Sec. 11. This act shall not apply to counties with a population of over 2 million.

HISTORY: New 1968, p. 470, Act 270, Imd. Eff. Jul. 1.

Act 15, 1942 (2nd Ex. Ses.), p. 54; Imd. Eff. Feb. 25.

AN ACT to authorize county boards of supervisors to provide fire protection for certain areas in counties now or hereafter having a population of not less than 5,000 inhabitants; to authorize the contracting for fire protection or the purchase of fire extinguishing apparatus and equipment, and maintenance and operation thereof; and to authorize such counties to make appropriations to pay the cost thereof. Am. 1945, p. 41, Act 44, Eff. Sep. 6.

The People of the State of Michigan enact:

46.301 Fire protection in counties over 5,000; powers of board of supervisors; contracts with townships.

Sec. 1. In any county now or hereafter having a population of not less than 5,000 inhabitants, as determined by the last federal decennial census or by any federal decennial census hereafter taken, where there are areas outside of incorporated cities for which adequate fire protection is not provided, the board of supervisors by a 2/3 vote of its membership of any such county shall have authority (1) to purchase fire extinguishing apparatus and equipment; (2) to provide for the housing, maintenance, care and operation thereof for any such areas within such county; or (3) to contract for such fire protection with the legislative body of any township, city or village located within such county; (4) to carry on an educational campaign for fire prevention and fire protection in such areas, and (5) to make such appropriation from the general fund of such county as such board of supervisors shall deem necessary for these purposes: Provided, That the county shall furnish fire protection to only such townships as have entered into a contract with the county to reimburse the county for such percentum, which in any case shall not be less than 50 percentum, of the cost of furnishing such fire protection as shall be determined by the board of supervisors.

HISTORY: Am. 1945, p. 41, Act 44, Eff. Sept. 6;—CL 1948, 46.301.

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46.302 Fire protection; appropriations from county general fund.

Sec. 2. The board of supervisors thereafter may appropriate annually from the general fund of such county such funds as may be required for the housing, maintenance, care and operation of such fire extinguishing apparatus and equipment, or to carry out contracts for such fire protection in such sums as such board of supervisors shall deem necessary.

HISTORY: CL 1948, 46.302.

46.303 Declaration of necessity.

Sec. 3. This act is declared to be necessary for the public good and welfare of the people of this state and for the protection of property and is enacted to meet an emergency created by the state of war.

HISTORY: CL 1948, 46.303.

Act 261, 1965, p. 437; Imd. Eff. Jul. 21.

AN ACT to authorize the creation and to prescribe the powers and duties of county and regional parks and recreation commissions; and to prescribe the powers and duties of county boards of supervisors with respect thereto.

The People of the State of Michigan enact:

46.351 County parks and recreation commission; creation, membership, terms, vacancies, rules and regulations, compensation.

Sec. 1. The board of supervisors of any county, by resolution adopted by a 2/3 vote of all its members, may create a county parks and recreation commission which shall be under the general control of the board. The commission shall consist of 10 members including the chairman of the county road commission, the county drain commissioner, the chairman of the county planning commission and 7 members appointed by the board of supervisors, at least 1 and not more than 3 of whom shall be members of the board. Of the members first appointed, 2 shall be appointed for a term ending 1 year from the following January 1, 2 for a term ending 2 years from the following January 1, and 3 for a term ending 3 years from the following January 1. Thereafter, each appointed member shall be appointed for a term of 3 years and until his successor is appointed and qualified. Each term shall expire at noon on January 1. A vacancy shall be filled by the board of supervisors for the unexpired term. The commission shall be deemed an agency of the county. The board of supervisors may make such rules and regulations in respect to the commission as it deems advisable. The members of the commission shall not be full-time officers, and the board of supervisors shall fix the compensation of the members.

HISTORY: New 1965, p. 437, Act 261, Imd. Eff. Jul. 21.

46.352 Regional parks and recreation commission; creation, membership, terms, vacancies, compensation.

Sec. 2. The boards of supervisors of 2 or more contiguous counties, by resolution adopted by a 2/3 vote of the members of each board, may create a regional parks and recreation commission. The commission shall consist of 4 members from each county including the chairman of the county road commission, and 3 members appointed by the board of supervisors, at least 1 and not more than 2 of whom shall be members of the board. Of the members first appointed, 1 each shall be appointed for terms ending 1, 2 and 3 years from the following January 1. Thereafter, each appointed member shall be appointed for a term of 3 years and until his successor is appointed and qualified. A vacancy shall be filled by the board of supervisors for the unexpired term.

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Members of the commission shall not be full-time officers, and the commission shall fix the compensation of its members.

HISTORY: New 1965, p. 438, Act 261, Imd. Eff. Jul. 21.

46.353 County and regional commissions; election of officers; treasurer; quorum, by-laws; contracts.

Sec. 3. Each January a county commission and a regional commission shall elect from its membership a president, a secretary and such other officers as it deems necessary, who shall hold office for the calendar year in which elected and until their successors are elected and qualified. The county treasurer shall be treasurer of county commissions and the county treasurer of the county furnishing the larger portion of the approved budget shall be treasurer of regional commissions. A majority of the members of the commission shall constitute a quorum for the transaction of business. The board of supervisors may authorize a county commission to adopt bylaws and enter into contracts. A regional commission may adopt bylaws and enter into contracts.

HISTORY: New 1965, p. 438, Act 261, Imd. Eff. Jul. 21;—Am. 1966, p. 326, Act 242, Imd. Eff. Jul. 11.

46.354 County commission; appropriation for expenses.

Sec. 4. The board of supervisors in its annual budget may provide for the expenses of a county commission, which shall be limited in its expenditures to amounts so appropriated unless a further appropriation is made by the board of supervisors.

HISTORY: New 1965, p. 438, Act 261, Imd. Eff. Jul. 21.

46.355 Regional commission; appropriation or tax levy; annual budget, approval, effect.

Sec. 5. The boards of supervisors of each county included in a region shall provide funds for a regional commission's operations by an appropriation from the general fund of the county, or by a tax levy for this purpose authorized by a vote of the qualified electors in each county. The commission annually shall present a budget to the boards of supervisors of the counties in the region. Upon approval of such budget by a majority of each of the boards of supervisors, the proposed budget shall be effective in all counties in the region. That part of the approved budget which is not financed by receipts from fees, gifts and other private sources shall be apportioned among the several counties on the basis of tax valuation. All appropriations shall be paid to the commission and disbursed under its direction.

HISTORY: New 1965, p. 438, Act 261, Imd. Eff. Jul. 21.

46.356 County and regional commissions; study of facilities and needs, plan.

Sec. 6. A county or regional commission may study and ascertain the county or regions park, preserve, parkway and recreation and other conservation facilities, the need for such facilities and the extent to which such needs are being currently met, and prepare and adopt a coordinated plan of areas and facilities to meet such needs.

HISTORY: New 1965, p. 438, Act 261, Imd. Eff. Jul. 21.

46.357 County and regional commissions; land ownership records, acquisition proposals and development plans, filing.

Sec. 7. A county or regional commission shall file with the state conservation department a record of its land ownership, proposals for acquisition of land, and its general development plans and programs for improvement and maintenance thereof.

HISTORY: New 1965, p. 439, Act 261, Imd. Eff. Jul. 21;—Am. 1966, p. 326, Act 242, Imd. Eff. Jul. 11.

46.358 County and regional commissions; acquisition of property.

Sec. 8. A county commission may acquire in the name of the county and a regional commission may acquire in its name by gift, purchase, lease, agreement, or otherwise, in fee or with conditions, suitable real property, within the county or region, or conti-

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guous with or adjacent thereto, for public parks, preserves, parkways, playgrounds, recreation centers, wildlife areas, lands reserved for flood conditions for impounding runoff water, and other conservation purposes. In acquiring or accepting land, due consideration shall be given to its scenic, historic, archaeologic, recreational or other special features.

HISTORY: New 1965, p. 439, Act 261, Imd. Eff. Jul. 21.

46.359 County and regional commissions; condemnation of private property.

Sec. 9. A county operating under this act or a regional commission may take private property necessary for any purpose within the scope of its powers under this act, for the use or benefit of the public, and institute and prosecute proceedings for that purpose under and in accordance with Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 439, Act 261, Imd. Eff. Jul. 21.

46.359a County and regional commissions; condemnation of property in another county.

Sec. 9a. A county or regional commission desiring to acquire real property in another county not a member of a regional commission, shall notify the board of supervisors of the county wherein the real property to be taken is located of its intentions to institute proceedings under section 9; and, unless the members of the board of supervisors by a majority vote disapprove the contemplated action within 60 days of the receipt of notification by certified mail of such contemplated action the county or regional commission may proceed to institute proceedings pursuant to the provisions of section 9.

HISTORY: Add. 1968, p. 157, Act 102, Imd. Eff. Jun. 7.

46.360 County and regional commission; acceptance of gifts and bequests, grants-in-aid.

Sec. 10. A county commission may accept in the name of the county and a regional commission may accept in its name gifts, bequests, grants-in-aid, contributions and appropriations of money and other personal property for conservation purposes.

HISTORY: New 1965, p. 439, Act. 261, Imd. Eff. Jul. 21;—Am. 1966, p. 326, Act 242, Imd. Eff. Jul. 11.

46.361 County and regional commissions; development and operation of facilities.

Sec. 11. A county or regional commission may plan, develop, preserve, administer, maintain and operate park and recreational places and facilities and construct, reconstruct, alter and renew buildings and other structures.

HISTORY: New 1965, p. 439, Act 261, Imd. Eff. Jul. 21.

46.362 County and regional commissions; custody, control and management of property.

Sec. 12. A county or regional commission shall have the custody, control and management of all real and personal property acquired by the county or a regional commission for public parks, preserves, parkways, playgrounds, recreation centers, wildlife areas, lands reserved for flood conditions for impounding runoff water, and other county conservation or recreation purposes.

HISTORY: New 1965, p. 439, Act 261, Imd. Eff. Jul. 21.

46.363 County and regional commissions; installation and maintenance of roads and parking facilities.

Sec. 13. A county or regional commission may install and maintain road and parking facilities within areas under its control.

HISTORY: New 1965, p. 439, Act 261, Imd. Eff. Jul. 21.

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46.364 County and regional commissions; rules, promulgation, amendment and repeal; effective date, publication; violation of act, penalty; enforcement, park rangers; police services.

Sec. 14. (1) A county or regional commission may make, amend or repeal rules for the protection, regulation and control of all its facilities and areas with the approval of the local board or boards of supervisors.

(2) Rules shall not be contrary to or inconsistent with the laws of the state. Rules shall not take effect until 10 days after their adoption by the county or regional commission and after their publication once a week for 2 consecutive weeks in at least 1 newspaper of general circulation in the county in which the area or facility to which the rules apply are located; and only after a copy thereof has been posted near each gate or principal entrance to the area or facility.

(3) Any person violating any rule adopted by a county or regional commission created shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $100.00 and costs of prosecution, or imprisoned in the county jail for a period not exceeding 90 days, or both.

(4) A county or regional commission may appoint park rangers who may be deputized by a sheriff to enforce the laws of the state and the apprehension of violators thereof. Park rangers may enforce the rules adopted by a county or regional commission whether deputized or not, and shall have the powers, privileges and immunities conferred upon peace officers by the laws of this state. No park ranger shall be appointed unless he or she meets the minimum standards established by the law enforcement officers training council. Park rangers shall exercise their authority and powers only on lands, waters and property administered by or under the jurisdiction of a county or regional commission.

(5) A county or regional commission may contract with townships, cities, villages or sheriffs for police services required under this section and may appropriate and expend funds for such services.

HISTORY: New 1965, p. 439, Act 261, Imd. Eff. Jul. 21;—Am. 1968, p. 314, Act 216, Eff. Aug. 1.

46.365 County and regional commissions; charges and fees, collection, payment to county treasurer, uses.

Sec. 15. A county or regional commission may charge and collect reasonable fees for the use of the facilities, privileges and conveniences provided. All charges and fees for the use of county facilities, privileges and conveniences shall be paid over to the county treasurer, and for the use of regional facilities, privileges and conveniences shall be used for the expenses of the regional commission.

HISTORY: New 1965, p. 439, Act 261, Imd. Eff. Jul. 21.

46.366 County and regional commission; employment of personnel, executive officer.

Sec. 16. A county commission may employ such personnel as may be authorized by the board of supervisors, including an executive officer. A regional commission may employ its personnel, including an executive officer.

HISTORY: New 1965, p. 440, Act 261, Imd. Eff. Jul. 21.

46.367 Parks and recreational facilities; authorization of county borrowing; issuance of revenue bonds, execution, maturity, redemption, interest; provisions governing; municipal finance commission, approval; amount, limitation; payment; tax levy, deposit.

Sec. 17. (1) Any county operating under this act, by resolution adopted by a majority of the members elect of its governing body, and with a vote of the majority of the electors of the county voting on the question, but subject to the prior permission of the

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municipal finance commission, may borrow money, pledge its full faith and credit for the repayment thereof and issue its bonds or notes to pay all or part of the cost of acquiring, planning and developing park and recreational places, and constructing, reconstructing, altering or renewing buildings and other structures related to said park and recreational places.

Revenue bonds.

(2) The revenue bonds shall be issued pursuant to the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, or any other applicable act.

Bonds; faith and credit; form; term; interest; sale.

(3) Bonds or notes shall be authorized by a resolution adopted by a majority of the members elect of the governing body of the county operating under this act. The full faith and credit of the county may be pledged for the prompt payment of the principal and interest on any borrowing by a county pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest of revenue bonds notwithstanding any provision of law. Any bonds or notes shall be issued in the name of the county operating under this act and shall be executed by the chairman of the board of supervisors and the county clerk, who shall also cause their facsimile signatures to be affixed to any interest coupons to be attached to any bonds. The county clerk shall affix to the bonds or notes the seal of the county. Bonds or notes issued under this act shall be negotiable instruments and shall mature serially or in 1 installment in not more than 40 years from the date thereof, and may be made redeemable, at the option of the county, prior to maturity on such terms and conditions as shall be provided by the resolution of the governing body of the county. The bonds or notes shall bear interest at not more than 6% per annum payable as provided therein. The bonds or notes and the interest thereon shall be made payable in lawful money of the United States and shall be exempt from taxation by the state or by any taxing authority within the state. The governing body of the county may authorize the sale of any such bonds or notes in accordance with the laws of the state. The limitations of sections 4 and 7 of chapter 5 of Act No. 202 of the Public Acts of 1943, as amended, being sections 135.4 and 135.7 of the Compiled Laws of 1948, shall not apply to bonds or notes issued pursuant to this act.

Municipal finance commission, approval; taxes; limitation.

(4) The issuance of bonds or notes under this act shall be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, except as provided herein, and a county shall not advertise for sale of bonds or notes until it has secured the approval of the municipal finance commission to the form of the notice of sale to be published. Any taxes levied to repay any borrowings by a county pursuant to this act shall be without limitation as to rate or amount. The amount of borrowings by a county pursuant to this act shall not be subject to any limitations or provisions contained in any law applicable to the county except that a county may not borrow pursuant to this act in an amount which taken together with other indebtedness of the county will exceed 10% of the assessed valuation of the county as last equalized by the state.

Bonds, payment; covenants.

(5) Bonds or notes issued by a county pursuant to this act may be paid out of any funds of the county available therefor. The resolution authorizing the issuance of any bonds or notes pursuant to this act shall contain an irrevocable covenant to levy and collect taxes in an amount necessary to pay the principal of and interest on the bonds or notes so issued as the same shall become due and shall pledge such taxes to the payment of the bonds or notes and shall provide for the deposit of proceeds thereof in a

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separate bank account to be used for no other purpose than the payment of the bonds or notes so authorized and issued. The resolution shall also pledge the full faith and credit of the county to the payment of the principal of and interest on the bonds or notes.

HISTORY: Add. 1969, p. 190, Act 104, Eff. Mar. 20, 1970.

Act 261, 1966, p. 358; Eff. Mar. 10, 1967.

AN ACT to provide for the apportionment of county boards of commissioners; to prescribe the size of the board; to provide for appeals; to prescribe the manner of election of the members of the county board of commissioners; to provide for compensation of members; and to repeal certain acts and parts of acts. Am. 1968, p. 215, Act 153, Imd. Eff. Jun. 13;—Am. 1969, p. 284, Act 137, Eff. Mar. 20, 1970.

The People of the State of Michigan enact:

46.401 County apportionment commission; apportionment of county into county commissioner districts.

Sec. 1. Within 60 days after the publication of the latest United States official decennial census figures, the county apportionment commission in each county of this state shall apportion the county into not less than 5 nor more than 35 county commissioner districts as nearly of equal population as is practicable and within the limitations of section 2. In counties under 75,000, upon the effective date of this act, the boards of commissioners of such counties shall have not to exceed 30 days into which to apportion their county into commissioner districts in accordance with the provisions of this act. If at the expiration of the time as set forth in this section a board of commissioners has not so apportioned itself, the county apportionment commission shall proceed to apportion the county under the provisions of this act.

HISTORY: New 1966, p. 358, Act 261, Eff. Mar. 10, 1967;—Am. 1968, p. 215, Act 153, Imd. Eff. Jun. 13;—Am. 1969, p. 284, Act 137, Eff. Mar. 20, 1970.

46.402 Number of county commissioners based on county population.

Sec. 2

County Population	No. of Commissioners
Under 5,001	Not more than 7
5,001 to 10,000	Not more than 10
10,001 to 50,000	Not more than 15
50,001 to 600,000	Not more than 21
Over 600,000	25 to 35

HISTORY: New 1966, p. 359, Act 261, Eff. Mar. 10, 1967;—Am. 1969, p. 284, Act 137, Eff. Mar. 20, 1970.

46.403 County apportionment commission; membership, rules of procedure, quorum, open meetings.

Sec. 3. The county apportionment commission shall consist of the county clerk, the county treasurer, the prosecuting attorney, and the statutory county chairman of each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election. If any county does not have a statutory chairman of a political party, the 2 additional members shall be a party representative from each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election and appointed by the chairman of the state central committee for each of the political parties. The clerk shall convene the apportionment commission and they shall adopt their rules of procedure. Any 3 members of the apportionment commission shall be a quorum sufficient to conduct its business. All action of the apportionment commission

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shall be by majority vote of the commission. All meetings of the apportionment commission shall be open to the public.

HISTORY: New 1966, p. 359, Act 261, Eff. Mar. 10, 1967.

46.404 County commissioner districts; guidelines for apportionment.

Sec. 4. In apportioning the county into commissioner districts, the county apportionment commission shall be governed by the following guidelines in the stated order of importance:

(a) All districts shall be single-member districts and as nearly of equal population as is practicable. The latest official published figures of the United States official census shall be used in this determination, except that in cases requiring division of official census units to meet the population standard, an actual population count may be used to make such division. Other governmental census figures of total population may be used if taken subsequent to the last decennial United States census and the United States census figures are not adequate for the purposes of this act. The secretary of state shall furnish the latest official published figures to the county apportionment commissions forthwith upon this act taking effect, and within 15 days after publication of subsequent United States official census figures.

A contract may be entered into with the United States census bureau to make any special census if the latest United States decennial census figures are not adequate.

(b) All districts shall be contiguous.

(c) All districts shall be as compact and of as nearly square shape as is practicable, depending on the geography of the county area involved.

(d) No township or part thereof shall be combined with any city or part thereof for a single district, unless such combination is needed to meet the population standard.

(e) Townships, villages and cities shall be divided only if necessary to meet the population standard.

(f) Precincts shall be divided only if necessary to meet the population standard.

(g) Residents of state institutions who cannot by law register in the county as electors shall be excluded from any consideration of representation.

(h) Districts shall not be drawn to effect partisan political advantage.

HISTORY: New 1966, p. 359, Act 261, Eff. Mar. 10, 1967;—Am. 1969, p. 284, Act 137, Eff. Mar. 20, 1970.

46.405 Apportionment plan; filing by county apportionment commission; access.

Sec. 5. The apportionment plan approved by the commission shall be filed in the office of the county clerk at which time it shall become effective, and copies of it shall be forthwith forwarded by the county clerk to the secretary of state for filing and shall be made available at cost to any registered voter of the county.

HISTORY: New 1966, p. 359, Act 261, Eff. Mar. 10, 1967.

46.406 Apportionment plan; petition for review.

Sec. 6. Any registered voter of the county within 30 days after the filing of the plan for his county may petition the court of appeals to review such plan to determine if the plan meets the requirements of the laws of this state. Any findings of the court of appeals may be appealed to the supreme court of the state as provided by law.

HISTORY: New 1966, p. 360, Act 261, Eff. Mar. 10, 1967.

46.407 Apportionment plan; failure of apportionment commission to submit; submission by registered voter.

Sec. 7. If the apportionment commission has failed to submit a plan for its county within 60 days but not less than 30 days after the latest official published census figures are available or within such additional time as may be granted by the court of appeals for good cause shown on petition from the apportionment commission, any regis-

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tered voter of the county may submit a plan to the commission for approval. The commission shall choose from among those submitted to it a plan meeting the requirements of the laws of this state and file such plan in the office of the county clerk as set forth in section 5 within 30 days after the deadline for the filing of the commission's own plan or any extension granted thereon.

HISTORY: New 1966, p. 360, Act 261, Eff. Mar. 10, 1967.

46.408 Official apportionment plan.

Sec. 8. Once an apportionment plan has been found constitutional and according to the provisions of this act and all appeals have been exhausted, or if no appeal is taken, when the time for appeal has expired, that plan shall be the official apportionment plan for the county until the next United States official decennial census figures are available.

HISTORY: New 1966, p. 360, Act 261, Eff. Mar. 10, 1967.

46.409 County board of commissioners; number per district; prohibited representation.

Sec. 9. The electors of each district established in accordance with this act shall elect 1 county commissioner to the county board of commissioners. There shall be no representation on the county board of commissioners other than that set forth by the provisions of this act.

HISTORY: New 1966, p. 360, Act 261, Eff. Mar. 10, 1967;—Am. 1969, p. 285, Act 137, Eff. Mar. 20, 1970.

46.410 County commissioners; terms.

Sec. 10. The term of each commissioner shall be concurrent with that of state representatives as specified in article 4, section 3 of the state constitution.

HISTORY: New 1966, p. 360, Act 261, Eff. Mar. 10, 1967;—Am. 1969, p. 285, Act 137, Eff. Mar. 20, 1970.

46.411 County board of commissioners; candidates for office, qualifications, nomination and election.

Sec. 11. Candidates for the office of commissioner shall be residents and registered voters of the district which they seek to represent and shall remain so to hold their office, if elected. Nominations and elections for commissioners shall be by partisan elections. To obtain the printing of the name of any person as a candidate for nomination for the office of commissioner upon the official primary ballot there shall be filed with the county clerk of each county a filing fee of $100.00 or nomination petitions signed by a number of qualified and registered electors residing within the district, equal to not less than 1% nor more than 4% of the number of votes cast in the district by such party for the office of secretary of state at the last general election in which a secretary of state was elected. The deadline for filing nomination petitions or filing fees shall be the same as candidates for state representative.

HISTORY: New 1966, p. 360, Act 261, Eff. Mar. 10, 1967;—Am. 1969, p. 285, Act 137, Eff. Mar. 20, 1970.

46.411a County board of commissioners; candidates for office, filing fees, returns and forfeitures.

Sec. 11a. For candidates paying a filing fee in lieu of filing petitions under section 11, the filing fees shall be returned to all such candidates who shall be nominated and to a like number of candidates who are next highest in order thereto in the number of votes received in the primary election; and in case 2 or more candidates shall tie in having the lowest number of votes allowing a refund hereunder, the sum of $100.00 shall be divided or prorated among them. The deposits of all other defeated candidates, as well as the deposits of all candidates who may withdraw or be disqualified, shall be forfeited and the candidates shall be notified of the forfeitures.

HISTORY: Add. 1969, p. 523, Act 284, Eff. Mar. 20, 1970.

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46.412 County board of commissioners; vacancies.

Sec. 12. When a vacancy occurs in the office of commissioner either by death, resignation or removal from the district or removal from office, the vacancy shall be filled by appointment within 30 days by the county board of commissioners of a resident and registered voter of that district who shall serve until the vacancy is filled by election at the next general or special election for the unexpired term of office and until his successor shall have been elected and qualified.

HISTORY: New 1966, p. 360, Act 261, Eff. Mar. 10, 1967;—Am. 1969, p. 285, Act 137, Eff. Mar. 20, 1970.

46.414 Repeal; effective date; validity of actions.

Sec. 14. Section 27 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.27 of the Compiled Laws of 1948, is repealed. This section shall become effective in any county upon taking office of supervisors elected pursuant to this act. Any action taken by any board of supervisors shall not be invalid solely due to the provisions of this section.

HISTORY: New 1966, p. 361, Act 261, Eff. Mar. 10, 1967;—Am. 1968, p. 215, Act 153, Imd. Eff. Jun. 13.

46.415 County commissioners; compensation; revision.

Sec. 15. Members of the board of commissioners shall receive such compensation as is fixed by resolution of the board of commissioners. However, compensation of members of the first board of commissioners elected under this act shall be fixed by resolution of the new board of commissioners before February 15, 1969. Changes in compensation shall become effective only when members of the board of commissioners commence their terms of office after a general election.

HISTORY: New 1966, p. 361, Act 261, Eff. Mar. 10, 1967;—Am. 1968, p. 216, Act 153, Imd. Eff. Jun. 13;—Am. 1969, p. 285, Act 137, Eff. Mar. 20, 1970.

46.416 References to county supervisors deemed to mean county commissioners.

Sec. 16. All references to county supervisors or county boards of supervisors in any other act shall be deemed to mean county commissioners and county boards of commissioners as established by this act and such county boards of commissioners shall be the county board of supervisors referred to in article 7 of the state constitution.

HISTORY: Add 1969, p. 285, Act 137, Eff. Mar. 20, 1970.

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CHAPTER 47. COUNTY AUDITORS

BOARD OF COUNTY AUDITORS

Act 275 of 1913

47.1 Board of county auditors; creation, referendum; form of resolution.
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47.3 Referendum; notice, posting and publication, evidence; ballots, preparation and distribution, form.
47.4 Referendum; conduct.
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Ch. 14, R.S. 1846 (cont'd.)

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47.130 Wayne county board of supervisors; annual meeting; powers as to correction of assessments.

Act 275, 1913, p. 531; Eff. Aug. 14.

AN ACT to authorize the boards of supervisors of counties to create a board of county auditors, appoint such officers, and prescribe their powers, duties and compensation.

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The People of the State of Michigan enact:

47.1 Board of county auditors; creation, referendum; form of resolution.

Sec. 1. The board of supervisors of any county in this state, except in such counties where provision has heretofore been made for the creation of the office of county auditor or board of county auditors, may, upon a majority vote of the members elect of said board, at any October session thereof, submit the question of creating and establishing a board of county auditors or county auditor in such county to a vote of the electors of said county. The board of supervisors may submit the question at a general election. The following form of resolution shall be sufficient for submitting the question: Resolved, That the question of creating and establishing a board of county auditors be submitted to a vote of the electors of the county of ..... at the general election to be held on the ..... day of ..... nineteen hundred .....

HISTORY: CL 1915, 2345;—CL 1929, 1203;—CL 1948, 47.1.

47.2 Board of county auditors; adoption of resolution, notice, form.

Sec. 2. At least 3 weeks shall intervene between the adoption of the resolution by the board of supervisors and the time of holding such election. After the adoption of the resolution by the board of supervisors, the county clerk shall give notice thereof. Such notice shall be addressed to the electors of the county and shall set forth the action of the board of supervisors, together with a copy of the resolution, and shall further give notice that said question will be stated upon the ballot to be used at said election, as follows: Shall a board of county auditors be created and established in the county of .....? Said notice may be in the following form:

To the electors of the county of ..... Notice is hereby given that at a meeting of the board of supervisors of said county, held on the ..... day of ..... nineteen hundred ..... the following resolution was adopted: (here set forth the resolution). Notice is further given that said question will be stated on the ballots to be used at said election, as follows: Shall a board of county auditors be created and established in the county of .....?

Dated .....

.....

Clerk of the county of .....

HISTORY: CL 1915, 2346;—CL 1929, 1204;—CL 1948, 47.2.

47.3 Referendum; notice, posting and publication, evidence; ballots, preparation and distribution, form.

Sec. 3. Said clerk shall cause such notice to be printed in the form of a handbill, to be posted in 3 or more places in said county, at least 2 weeks before the time of such election, and also to be published in such newspaper or newspapers published and circulated in said county, as the board of supervisors may direct, once in each week for at least 2 weeks before said election. Proof of the posting and publication of such notice may be made by affidavit of any person knowing the facts, and be filed in the office of said clerk, and shall be recorded in the records of the proceedings of the board of supervisors. Such affidavits or the record thereof shall be prima facie evidence of the facts stated therein. Ballots shall be prepared and distributed by the same officers prescribed by law for general elections. The question shall be stated on such ballots as fol-

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lows: Shall a board of county auditors be created and established in the county of .....? and immediately below and on different lines shall be printed the word "Yes" and the word "No." At the time mentioned in such resolution such election shall be held and the vote taken accordingly.

HISTORY: CL 1915, 2347;—CL 1929, 1205;—CL 1948, 47.3.

47.4 Referendum; conduct.

Sec. 4. If upon the canvass of the votes cast at such election, it shall appear that the majority is in favor of the adoption thereof, then the question of creating and establishing a board of county auditors shall be considered as adopted in such county, and thereupon the provisions of this act shall be and become operative in such county. The manner of preparing and distributing the ballots at any general or special election held under this act, the manner of conducting, canvassing, returning and declaring the result, shall be the same as now prescribed by law for other county elections, except as herein otherwise provided.

HISTORY: CL 1915, 2348;—CL 1929, 1206;—CL 1948, 47.4.

47.4a Board of county auditors; operation under repeal, continuance.

Sec. 4a. Any board of county auditors operating under a special or local act, upon repeal of the special or local act, shall be considered as operating under the provisions of this act without formal reorganization, and it shall function and be governed accordingly.

HISTORY: Add. 1961, p. 4, Act 3, Imd. Eff. Mar. 21.

47.5 Board of county auditors; election, terms, vacancies, eligibility.

Sec. 5. The board of supervisors of any county instead of electing all the members of the board of auditors may elect by ballot a board of county auditors of not to exceed 3 members, 1 of whom the board of supervisors shall designate as chairman of the board of county auditors. If the board of county auditors consists of 1 man, he shall be elected for a term of 1 year; if the board consists of 2 men, 1 shall be elected for a term of 1 year, and 1 for a term of 2 years; if the board consists of 3 men, 1 shall be elected for 1 year, 1 for 2 years and 1 for 3 years. The term of office of each of these members shall begin on the following January 1. At each October session of the board of supervisors preceding the expiration of the term of office of each of the individual members of the board, his successor shall be appointed by the board of supervisors for a term of 3 years from the following January 1. Every person so elected shall hold for the term of office indicated and until his successor is elected and qualified. No person shall be deemed elected as a member of the board of county auditors who shall not receive a majority vote of all the members of the board of supervisors. Whenever a vacancy occurs in the board of auditors, it shall be filled by the board of supervisors, except in counties now or hereafter having a population of 1,500,000 or more, vacancies shall be filled as provided in section 239 of Act No. 116 of the Public Acts of 1954, being section 168.239 of the Compiled Laws of 1948, and such appointment shall be for the unexpired term of the vacancy so filled. No person holding any office either elective or appointive under any county adopting this act, or any of the townships of the county, or of the state, and no person not an elector of the county shall be eligible to hold the office of county auditor. No more than 2 members of any board of auditors shall be affiliated with the same political party.

HISTORY: CL 1915, 2349;—Am. 1927, p. 864, Act 362, Eff. Sep. 5;—CL 1929, 1207;—CL 1948, 47.5;—Am. 1961, p. 61, Act 63, Eff. Sep. 8.

VACANCIES: Filling, see Compilers' § 201.35.

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47.6 Board of county auditors; chairman; county clerk as clerk of board; record of proceedings; quorum; office; compensation and expenses.

Sec. 6. The chairman of the board shall preside over its meetings. The county clerk, by himself or his deputy, shall be in attendance during each of the meetings, and be the clerk of the board, without compensation other than his regular salary or the board of supervisors may appoint and fix the compensation of the secretary who shall perform the function of clerk of the board of auditors. The clerk, in addition to all such duties as may devolve upon him, shall keep a record of all business transacted by the board, and the minutes of the proceedings of all meetings held, and under the direction of and for the board shall have charge of all letters, papers and documents and records of the board. Any 2 members of the board shall constitute a quorum for the transaction of business. The board of supervisors may provide the board of county auditors with an office at the court house, and the members of the board of county auditors shall receive such compensation and expenses as may be determined by the board of supervisors, payable monthly in lieu of all fees.

HISTORY: CL 1915, 2350;—CL 1929, 1208;—CL 1948, 47.6;—Am. 1961, p. 4, Act 3, Imd. Eff. Mar. 21.

47.7 Board of county auditors; meetings, time and place; county clerk, custodian of records; additional compensation.

Sec. 7. The said board of county auditors shall meet for the transaction of business in the office of the clerk of said county, or in some convenient room in the court house of said county, and when said board is not in session, the clerk of said county shall receive, file and be custodian of all books and papers belonging to or intended for the said board, and deliver them on demand for examination, to any member of said board of auditors. The said board of auditors shall meet for the transaction of business in the court house on the first Monday of each month, and shall continue its session daily from 9 a.m. to 12 p.m. and from 2 p.m. to 5 p.m. until pending business is disposed of, but the members of the board receiving 5 dollars per day shall not receive said pay for a longer period than 5 days in any 1 month: Provided, however, That the board of supervisors of any county may by resolution require the services of the individual members more than 5 days per month and fix the compensation of the members of said board in such sum in excess of the above stated amount as they shall deem just.

HISTORY: CL 1915, 2351;—Am. 1927, p. 865, Act 362, Eff. Sept. 5;—CL 1929, 1209;—CL 1948, 47.7.

47.8 Board of county auditors; audit of claims against county, payment; violation of section, penalty.

Sec. 8. No claim against any county adopting the provisions of this act, including all claims incurred by the county drain commissioner, shall be paid by the treasurer of said county until it shall have been duly audited and allowed by the board of county auditors, and payment of an audited claim shall be made only upon a warrant duly signed by the chairman of said board, and countersigned by the clerk, excepting salaries fixed by law or the board of supervisors of said county and jury and witness fees, primary school money and such other funds as may come into the hands of the county treasurer, which are created by and disbursed under special statutes relating thereto. Any person violating this section of this statute shall on conviction thereof, be punished by fine not exceeding 1,000 dollars or by imprisonment not exceeding 2 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 2352;—CL 1929, 1210;—CL 1948, 47.8.

47.9 Board of county auditors; powers and duties.

Sec. 9. The said board shall have power, and it is hereby expressly authorized and directed:

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Audit of claims; warrants.

First, To audit all claims which are chargeable against the said county, as in section 8 above provided, and to draw warrants therefor, duly signed by its chairman and countersigned by the clerk; but no warrant shall be drawn or issued by said board except for the amount of a just claim against said county, which has been duly allowed by said board;

Purchase of supplies.

Second, To purchase such books, stationery, blanks, printed matter, furniture and general supplies, as shall be necessary for the use of the county and its officers, and the circuit court;

Examination of county accounts; treasurer, duties.

Third, To examine the books and accounts of all county officers. The board, may as often as it deems necessary require the accounts and vouchers of any county officer to be presented, and after the same shall have been examined and audited by said board, it shall not be required that said account be again audited by the county board of supervisors. Whenever any moneys are paid to the county treasurer by an officer or agent of said county, such officer or agent shall take a duplicate receipt therefor, which shall be filed forthwith in the office of the said board, and said county treasurer shall at the end of each month, and at such other times as may be required by said board, report to said board all moneys received by him, from and after making his last report;

County help.

Fourth, To recommend to the board of supervisors the number of clerks, assistants and other help necessary in the several county offices, and also recommend compensation for such deputies, clerks and assistants employed therein, and in the circuit court when not otherwise provided by law;

System of records and accounts; reports; penalty.

Fifth, To designate and establish a system of records and accounts for the various county offices, and require any county officer to make report under oath of any subject or matter connected with the duties of his office. Any person violating the provision of the subdivision shall, upon conviction thereof, be punished as provided in section 8 hereof;

Bonds, approval.

Sixth, To approve any and all official bonds in which the county may be interested, where the approval of such bonds is not otherwise provided by law. The board may require any officer, deputy or assistant or clerk to give bond to the people of the state of Michigan in such sum as it deems reasonable and necessary for the faithful performance of their respective duties;

Testimony.

Seventh, To summon witnesses, administer oaths and take testimony as to the legality of any bill or claim pending before said board;

Claims passed, statement, inspection.

Eighth, To prepare on or before the tenth day of each month, a statement signed by the clerk of said board of all claims passed upon by the board during the preceding month. Copies of the statement shall be on file and available for inspection only by the public at the clerk's office;

Estimates, expenses for ensuing year.

Ninth, To prepare annually before the first day of October of each year, a detailed estimate of the necessary expenses of said county for the ensuing calendar year, together with an estimate of the probable receipts of the county from all sources other

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than taxation. These estimates shall be presented to the board of supervisors at its annual October session, on the first day of such session, with recommendation of said board of auditors as to the amount of money necessary to be raised by taxation for the several purposes of the county expenditures;

County buildings, control; maintenance.

Tenth, To have immediate charge and control of the court house and all other county buildings of said county and to provide for the maintenance of the same in an appropriate manner: Provided, That no more than $1,000.00 shall be expended in any 1 year for repairing or improving the county buildings;

Printing contracts.

Eleventh, To contract for the printing of all proceedings of the board of supervisors and for printing all official ballots as prepared by the board of county election commissioners, and such other printing as may be required in the various county offices, all of which shall be contracted for with the lowest responsible bidder;

Chairman pro tempore.

Twelfth, To elect 1 of their members to act as chairman pro tempore in case of the illness or unavoidable absence of said chairman.

HISTORY: CL 1915, 2353;—CL 1929, 1211;—CL 1948, 47.9;—Am. 1964, p. 276, Act 207, Eff. Aug. 28.

47.10 Bills of county justice of the peace; certification of county treasurer, requirement.

Sec. 10. Before allowing the bills of any justice of the peace of said county, the board of auditors shall require said justice to furnish a certified statement from the county treasurer showing that all fines collected by the said justice of the peace have been paid over to the county treasurer, up to and including all pending bills, as required by law.

HISTORY: CL 1915, 2354;—CL 1929, 1212;—CL 1948, 47.10.

47.11 Board of county auditors; members' interest in contracts prohibited.

Sec. 11. No member of said board of auditors shall be directly or indirectly interested in any contract with said county which may involve the expenditure of any county money, or in the sale of supplies to said county, or in the performance of any paid services of said county other than the services as a member of said board.

HISTORY: CL 1915, 2355;—CL 1929, 1213;—CL 1948, 47.11.

47.12 Board of county auditors; county prosecuting attorney as legal advisor, duties.

Sec. 12. The prosecuting attorney for the said county shall, without any compensation other than his regular salary, be the legal advisor of said board of auditors and shall, on the request of any member thereof, render an opinion in writing on the legal status of any bill pending before said board, and shall on his motion, investigate the findings of said board, whenever in his opinion, the public service will be benefited thereby, and shall institute criminal proceedings against the members of said board or any of them, for malfeasance or misfeasance in office.

HISTORY: CL 1915, 2356;—CL 1929, 1214;—CL 1948, 47.12.

47.13 Board of county auditors; collusion or neglect of duty, penalty.

Sec. 13. Any member of said board of auditors who shall enter into collusion with any claimant or any other person or persons to defraud the county, or wilfully violate any of the provisions of this act, or shall wilfully or grossly neglect the duties of his office, shall be guilty of a misdemeanor, and on conviction thereof shall be punished as provided in section 8 hereof. The conviction of an auditor for violation of any of the provisions of this act shall vacate his office at once.

HISTORY: CL 1915, 2357;—CL 1929, 1215;—CL 1948, 47.13.

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47.14 Construction of act.

Sec. 14. In the event that the board of supervisors shall submit the question of the appointment of a county auditor as provided in section 1 of this act, then all the provisions of this act shall be construed so as to permit the carrying out of the provisions of this act by an individual qualified as herein provided, to be known as county auditor.

HISTORY: CL 1915, 2358;—CL 1929, 1216;—CL 1948, 47.14.

47.15 Board of county auditors; bond, oath of office.

Sec. 15. Before entering upon his official duties each member of the board of county auditors shall execute a bond in the sum of 2,000 dollars with sufficient sureties to be approved by the circuit judge of said county, assuring the faithful performance of his respective duties, and shall take and subscribe to the constitutional oath of office and file the same in the office of the county clerk. The expense of procuring the said bonds shall be paid by the county.

HISTORY: CL 1915, 2359;—CL 1929, 1217;—CL 1948, 47.15.

Sec. 16. (This was a repeal section.)

HISTORY: CL 1915, 2360;—CL 1929, 1218;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 228, 1933, p. 356; Eff. Oct. 17.

AN ACT relative to the powers and duties of all boards of county auditors now existing or hereafter created in the state of Michigan; authorizing the exercise of all powers and duties now or hereafter vested in such boards of county auditors by the concurrence of the majority of the members of such boards of county auditors; providing that all persons appointed or employed by such boards shall be subject to removal at the will of the majority of the members of such boards of county auditors and repealing all acts and parts of acts in contravention of the provisions hereof.

The People of the State of Michigan enact:

47.21 Board of county auditors; action by majority.

Sec. 1. In all counties now or hereafter having boards of county auditors, all powers and duties now or hereafter vested in such boards of county auditors shall be exercised by the concurrence of the majority of the members of such boards of county auditors.

HISTORY: CL 1948, 47.21.

47.22 Board of county auditors; appointment and removal of employees by majority.

Sec. 2. All persons heretofore or hereafter appointed or employed by such boards of county auditors shall be appointed or employed and subject to removal at the will of the majority of the members of such boards of county auditors.

HISTORY: CL 1948, 47.22.

Sec. 3. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

47.31 Repealed. 1961, p. 4, Act 3, Imd. Eff. Mar. 21.

Section fixed the salary of county auditors in certain counties.

Act 63, 1889, p. 68; Imd. Eff. Apr. 23.

AN ACT relative to the board of county auditors for the county of Wayne, and to their powers, duties and compensation.

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The People of the State of Michigan enact:

47.51 Wayne county board of county auditors; election, oath of office, bond.

Sec. 1. That the members of the board of county auditors for the county of Wayne shall be elected at the time and in the manner now prescribed by law. Before entering upon the duties of their office they shall take and file in the office of the county clerk the constitutional oath of office, and file in the office of the county treasurer a bond to the people of this state, conditioned for the faithful performance of the duties of their office, which bond, with the sureties thereto, and the penal sum therein mentioned, shall be approved by the judges of the circuit court for said county.

HISTORY: How. 518b;—CL 1897, 2525;—CL 1915, 2334;—CL 1929, 1226;—CL 1948, 47.51.

VACANCIES: See Compilers' § 201.31 et seq.

Sec. 2.

HISTORY: How. 518c;—CL 1897, 2526;—CL 1915, 2335;—CL 1929, 1227;—Rep. 1947, p. 264, Act 186, Eff. Oct. 11.

47.53 Wayne county board of auditors; chairman; clerk, bond.

Sec. 3. The member of said board whose term of office shall soonest expire shall be the chairman of said board, and in his absence or inability to serve, the auditor whose term will expire next following that of the chairman shall be the chairman pro tempore of said board. Said board shall appoint their own clerk and prescribe his duties, and shall require him before entering upon his duties to give bond to the people of this state in such form, and with such sureties and in such sum as they shall approve, for the faithful performance of his duties; said bond shall be filed in the office of the county treasurer.

HISTORY: How. 518d;—CL 1897, 2527;—CL 1915, 2336;—CL 1929, 1228;—CL 1948, 47.53.

47.54 Wayne county board of auditors; meetings, rules and regulations, record of proceedings.

Sec. 4. Said board will hold regular sessions at least twice in each week, and at such other times as they shall deem it convenient or necessary; they may establish such rules and regulations in reference to the interests and business concerns of said county, and in reference to the mode of proceeding before such board, as they shall deem necessary or proper in all matters not especially provided for by law. They shall keep a true record of the proceedings of the board.

HISTORY: How. 518e;—CL 1897, 2528;—CL 1915, 2337;—CL 1929, 1229;—CL 1948, 47.54.

47.55 Wayne county board of auditors; adjustment of claims against county, record.

Sec. 5. Said board shall prescribe and fix the compensation for all services rendered for and adjust all claims against said county, and the sum so fixed and defined shall be subject to no appeal. The amount of each claim allowed, the date of allowance, the name of the claimant, and to whom such claim is paid, and the amount and number of the warrant drawn therefor, shall be recorded in the records of said board. All claims presented to said board and allowed shall be filed in the order of the number thereof, and preserved; and the number of the claim and other particulars required to be recorded shall be endorsed thereon, and such endorsement signed by the chairman and clerk of said board, and no such account shall for any reason be allowed, excepting by order of some court of competent jurisdiction, to be taken from said office.

HISTORY: How. 518f;—CL 1897, 2529;—CL 1915, 2338;—CL 1929, 1230;—CL 1948, 47.55.

47.56 Claims against county; payment; violation of section, penalty.

Sec. 6. The county treasurer of said county shall not pay any moneys, excepting on the warrants drawn by the said board of auditors, which shall be signed by the chairman of said board and countersigned by its clerk, and no warrants shall be drawn or issued by said board or either of them or countersigned by said clerk, excepting for the

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amount of a claim against said county, which shall have been duly allowed by said board. Any violation of the provisions of this section shall, on conviction thereof, be punished by fine not exceeding 1,000 dollars, or by imprisonment not exceeding 2 years, or by both fine and imprisonment in the discretion of the court: Provided, That the treasurer may make his deposits in the bank designated for the purpose, and may pay over to his successor in office the moneys in his hands as provided by law.

HISTORY: How. 518g;—CL 1897, 2530;—CL 1915, 2339;—CL 1929, 1231;—CL 1948, 47.56.

47.57 Wayne county board of auditors; approval of official bonds; suit.

Sec. 7. All official bonds, except those of notaries public, which are now by law required to be approved by the board of supervisors or the circuit judges, or by some other county officer, shall hereafter be approved by said board of county auditors, and whenever they shall have reason to believe that there may have been any breach of the condition of any such bond they may direct that said bond be put in suit.

HISTORY: How. 518h;—CL 1897, 2531;—CL 1915, 2340;—CL 1929, 1232;—CL 1948, 47.57.

47.58 Wayne county board of auditors; powers and duties.

Sec. 8. Said board shall have power, and they are hereby authorized:

Auditing of county accounts; reports; accounts of county moneys.

First, At any time to examine the books and accounts of the county treasurer and other county officers, and they shall on demand be exhibited to them by said officers. And as often as they may require, the accounts and vouchers of the county treasurer shall be audited and allowed by them, and after the same shall have been audited by said board it shall not be requisite that such accounts and vouchers be again audited by the board of supervisors. Whenever any moneys are paid to the county treasurer by any officer or agent of said county, such officer or agent shall take a duplicate receipt therefor, which shall be filed in the office of said board; and said treasurer shall, on each day, report to said board the moneys received by him on that day and after making his last report. They shall keep an account of all moneys which may be chargeable against the county treasurer and any other officer who may receive any moneys, belonging to the county, and shall keep an account with said officers showing the amounts with which they should be credited, and their accounts shall be so kept that the financial affairs of the county may at any time be ascertained by inspection of the books of said board;

Needed taxes, report to supervisors.

Second, To ascertain and report to the board of supervisors of said county, on or before the annual meeting of said board of supervisors, the amount of tax necessary to be raised therein for county purposes; such amount shall be separated into different funds, which shall be named or otherwise so described as to designate the several objects for which it is necessary to levy taxes;

Authorized bonds, issuance, terms; records; disposition.

Third, To negotiate for and issue any bonds which may at any time be authorized by law to be issued or any loan made for county purposes. Such bonds shall be regularly dated and numbered in the order of their issue; shall be for sums of not less than 500 dollars each; shall be signed by the chairman of said board, and countersigned by its clerk. The board shall keep an accurate record of said bonds, the number, date, and amount of each bond, its rate of interest, when and where the same is payable, and the person to whom it is issued. And when the same are ready to be delivered, they shall be placed in the hands of the county treasurer, who shall deliver the same only upon receiving the proper amount from the purchaser of such bond. Before any such issue is made, sealed proposals shall be received for the purchase of such bonds, after advertisement for at least 10 days, in at least 2 of the daily newspapers published in the city of Detroit;

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County offices, filling; board clerk; terms.

Fourth, To appoint annually, on the first Monday of December, 1 superintendent of the poor, for the term of 3 years, and the persons so appointed shall be successors in office of the superintendents of the poor heretofore appointed by said board; to appoint the necessary engineers and janitors for the several county offices, court rooms and buildings, 1 or more county physicians, and such other assistants, accountants and agents as they may deem necessary for the proper conduct of the business of the county, except those clerks and deputies now appointed under the statutes by the several county officers. And the clerk of said board, and the persons so appointed, shall hold office for 1 year from the first day of January, unless otherwise specially mentioned in the resolution of the board making such appointments. And they shall have the power to fill any vacancies in the said offices, and shall have the same power of removal of any such officer or appointee as boards of supervisors possess under the statutes of this state, provided such removals be made with the concurrence of all the members of said board;

Clerks, number, compensation.

Fifth, To determine the number of the clerks and assistants to be employed in the several county offices, and to fix the compensation of the deputies, clerks and assistants employed in the several county offices, and in the circuit, probate and justice's courts;

County officer, reports, bond.

Sixth, To require any county officer to make a report under oath to them, on any subject or matter connected with the duties of his office, and they may require such officer or any deputy, assistant or clerk to give such bonds or further or additional bonds to the people of this state as shall be reasonable or necessary for the faithful performance of their respective duties; but the giving of a bond by any such deputy, assistant or clerk shall not be held to release any such officer upon any bond theretofore given by him;

Office space; maintenance.

Seventh, To make all contracts and leases for county offices, court rooms and other buildings for the use of the county and provide the necessary heating and lighting of the same, procure the necessary furniture and fixtures for them and make all necessary repairs thereto: Provided, That when the estimated cost of any work or materials to be provided by said board under this act shall exceed the sum of 1,000 dollars, the same shall be done or furnished by contract on bids received therefor, after publication of notice for at least 5 days in 1 or more daily papers published in the city of Detroit: And provided further, That this act shall not be construed to give said board the power to contract for the erection of any new buildings or the purchase of any land for any purpose whatever;

Office supplies.

Eighth, To procure and furnish for the county offices and for the several courts all necessary books, stationery, blanks and printing;

Building plans.

Ninth, To procure the necessary plans and specifications for and supervise the construction of any buildings erected by the county, excepting such as the superintendents of the poor may construct;

County representative.

Tenth, To represent the county and have the care and management of the property and business of the county in all cases where no other provision is made.

HISTORY: How. 518i;—CL 1897, 2532;—CL 1915, 2341;—Am. 1925, p. 510, Act 339, Eff. Aug. 27;—CL 1929, 1233;—CL 1948, 47.58.

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47.59 Wayne county board of supervisors; limitation of powers.

Sec. 9. The board of supervisors of said county shall not have or exercise the power herein conferred upon said board of auditors.

HISTORY: How. 518j;—CL 1897, 2533;—CL 1915, 2342;—CL 1929, 1234;—CL 1948, 47.59.

R.S. 1846, Ch. 14.

Secs. 1-26.

HISTORY: Rep. 1851, p. 242, Act 156, Imd. Eff. April 8.

For present law, see Compilers' § 46.1 et seq.

BOARD OF AUDITORS FOR THE COUNTY OF WAYNE.

47.127 Repealed. 1965, p. 125, Act 90, Imd. Eff. Jun. 28.

Section continued Wayne county auditors; election; term; qualification.

Secs. 28-29.

HISTORY: CL 1857, 370, 371;—CL 1871, 504, 505;—How. 512, 513;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

These sections relating to meetings, chairmanship, powers and duties of board have been superseded by later legislation, 1889, p. 68, Act 63, Imd. Eff. April 23, being Compilers' § 47.51 et seq.

47.130 Wayne county board of supervisors; annual meeting; powers as to correction of assessments.

Sec. 30. The supervisors in the county of Wayne shall hold their annual meeting in each year, at the time and place appointed by law; and shall have and exercise all the powers conferred by law upon the supervisors of the several counties, in relation to the equalizing and correcting of the assessments in said county, apportioning the state and county taxes to be collected in the several townships, ascertaining and returning the aggregate valuation of real and personal property in the county, and all other matters connected with the assessment and collection of taxes within said county.

HISTORY: CL 1857, 372;—CL 1871, 506;—How. 514;—CL 1897, 2524;—CL 1915, 2333;—CL 1929, 1225;—CL 1948, 47.130.

GENERAL TAX LAW: See Compilers' § 211.1 et seq.

Secs. 31-34.

HISTORY: CL 1857, 373-5;—CL 1871, 507-9;—How. 515-17;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

The provisions of Sec. 31 are re-enacted in subdiv. 2 of Sec. 8 of Act 63 of 1889 (Compilers' § 47.58). Sec. 32 provided for appeals in same manner as appeals from determinations of boards of supervisors. See Const. VIII, 9. Sec. 33 made county clerk the clerk of board. But see Compilers' § 47.52. Sec. 34 provided for a per diem compensation and mileage and is long since superseded. See Compilers' § 47.53.

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CHAPTER 48. COUNTY TREASURERS

COUNTY TREASURER

Ch. 14, R.S. 1846 (cont'd.)

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Act 27 of 1861

48.141, 48.142 Repealed.

R.S. 1846, Ch. 14 (continued).

COUNTY TREASURERS.

48.35 County treasurer; bond, requirement.

Sec. 35. The county treasurer shall give a bond of a surety company authorized to do business in this state for the faithful and proper discharge of the duties of his office as hereinafter directed. The cost of such bond shall be paid from the general fund of the county.

HISTORY: CL 1857, 377;—CL 1871, 511;—Am. 1877, p. 83, Act 107, Eff. Aug. 21;—How. 519;—CL 1897, 2534;—CL 1915, 2361;—Am. 1923, p. 84, Act 59, Eff. Aug. 30;—CL 1929, 1261;—Am. 1937, p. 366, Act 236, Eff. Oct. 29;—CL 1948, 48.35;—Am. 1964, p. 391, Act 255, Imd. Eff. May 28.

48.36 County treasurer; bond, contents, approval.

Sec. 36. The bond shall be given to the board of supervisors of the county, with 3 or more sufficient sureties, to be approved of by the board of supervisors, and in such sum as they shall direct, conditioned that such person shall faithfully and properly execute his duty and trust, and that such treasurer shall pay according to law all moneys which shall come to his hands as treasurer, and will render a just and true account thereof whenever required by the board of supervisors, or by any provision of law, and that he will deliver over to his successor in office, or to any other person authorized by law to receive the same, all moneys, books, papers and other things appertaining or belonging to said office. If the board of supervisors, in any case, has neglected or refused, or shall neglect or refuse, for the period of 20 days after the commencement of the term for which such treasurer was elected, to approve of the sufficiency of the sureties to such bond, or direct the sum in which the same shall be given, the circuit judge, may, on application of the treasurer elect, approve of the sufficiency of the sureties of such bond, on being satisfied of their pecuniary responsibility to meet the exigency of such bond, and may direct the sum for which such bond shall be given, not however in a less sum than that directed for his predecessor.

HISTORY: CL 1857, 378;—Am. 1859, p. 96, Act 57, Imd. Eff. Feb. 4;—CL 1871, 512;—How. 520;—CL 1897, 2535;—CL 1915, 2362;—CL 1929, 1262;—CL 1948, 48.36;—Am. 1958, p. 122, Act 115, Eff. Sep. 13.

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48.37 County treasurer; deputy, appointment, oath of office, bond; employment of personnel, provisions governing, official bonds; liability.

Sec. 37. The county treasurer shall appoint a deputy, who, in the absence of the treasurer from his office, or in case of a vacancy in the office, or any disability of the treasurer to perform the duties of his office, may perform all the duties of the office of treasurer, until such vacancy is filled, or such disability is removed. The county treasurer may revoke such appointments at any time. The deputy shall qualify by taking the constitutional oath of office and filing a bond as provided in this section. The treasurer may employ such personnel as is necessary and approved by the board of supervisors. In any county having a civil service, employment of personnel shall be in accordance with the provisions of Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.427 of the Compiled Laws of 1948. All appointments and revocations of appointments shall be in writing. No treasurer shall be responsible for the acts, defaults and misconduct in office of any deputy or any other employee in the treasurer's office accruing without the knowledge or negligence of the treasurer. Each deputy or other employee, before entering upon the duties of their office, shall execute and file an official bond, blanket or individual bond, for the faithful performance of their duties in such amount, form and manner as shall be prescribed by the board of supervisors of the county. The deputy or other employee shall be liable for his acts, default and misconduct in office in the same manner as the treasurer, his executors and administrators, would otherwise be liable, and actions therefor shall be prosecuted directly against the deputy or other employee, and the surety on his official bond.

HISTORY: CL 1857, 379;—CL 1871, 513;—How. 521;—CL 1897, 2536;—CL 1915, 2363;—CL 1929, 1263;—CL 1948, 48.37;—Am. 1958, p. 122, Act 115, Eff. Sep. 13.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

Sec. 38.

HISTORY: CL 1857, 380;—CL 1871, 514;—How. 522;—CL 1897, 2537;—CL 1915, 2364;—CL 1929, 1264;—Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

NOTE: This section provided for filling of vacancies. See Compilers' § 201.35.

48.39 County treasurer; persons ineligible for office.

Sec. 39. No person holding the office of prosecuting attorney, judge of a county court, county clerk, supervisor or sheriff, shall hold the office of county treasurer.

HISTORY: CL 1857, 381;—CL 1871, 515;—How. 523;—CL 1897, 2538;—CL 1915, 2365;—CL 1929, 1265;—CL 1948, 48.39.

48.40 County treasurer; duties as to county moneys.

Sec. 40. It shall be the duty of the county treasurer to receive all moneys belonging to the county, from whatever source they may be derived; and all moneys received by him for the use of the county, shall be paid by him only on the order of the board of supervisors, signed by their clerk, and countersigned by their chairman, except when special provision for the payment thereof is or shall be otherwise made by law.

HISTORY: CL 1857, 382;—CL 1871, 516;—How. 524;—CL 1897, 2539;—CL 1915, 2366;—CL 1929, 1266;—CL 1948, 48.40.

48.41 County treasurer; exhibition of accounts to board of supervisors.

Sec. 41. At the annual meeting of the board of supervisors, or at such other time as they shall direct, the county treasurer shall exhibit to them all his books and accounts, and all vouchers relating to the same, to be audited and allowed: Provided, That such vouchers and/or duplicate copies in the office of the county clerk may be destroyed at the expiration of 10 years after being so audited and allowed.

HISTORY: CL 1857, 383;—CL 1871, 517;—How. 525;—CL 1897, 2540;—CL 1915, 2367;—CL 1929, 1267;—Am. 1937, p. 11, Act 7, Eff. Oct. 29;—CL 1948, 48.41.

48.42 County treasurer; delivery of records to successor.

Sec. 42. Upon the death, resignation, or removal from office, of any county treasurer, all the books and papers belonging to his office, and all moneys in his hands by virtue of his office, shall be delivered to his successor in office, upon the oath of the

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preceding county treasurer, or in case of his death upon the oath of his executors or administrators.

HISTORY: CL 1857, 384;—CL 1871, 518;—How. 526;—CL 1897, 2541;—CL 1915, 2368;—CL 1929, 1268.—CL 1948, 48.42.

48.43 County treasurer; compensation.

Sec. 43. The county treasurer shall receive for his services, such compensation as the board of supervisors shall deem reasonable to be allowed and ordered by them.

HISTORY: CL 1857, 385;—CL 1871, 519;—How. 527;—CL 1897, 2542;—CL 1915, 2369;—CL 1929, 1269;—CL 1948, 48.43.

Salary in lieu of fees, see Act 237 of 1919, being Compilers' § 45.401 et seq.

48.44 County treasurer; insurance of public buildings.

Sec. 44. When directed by the board of supervisors, the county treasurer shall cause to be insured any or all the public buildings belonging to the county, as said board shall direct, and the insurance thereon shall be taken in the name of the treasurer, and his successors in office: Provided, That in such counties as shall have a board of county auditors, said board of county auditors shall, when directed by the board of supervisors of said county, cause to be insured any or all of the public buildings belonging to said county or any other property, real or personal, belonging to said county, as said board of supervisors shall direct, and the insurance thereon shall be taken in the name of the county treasurer and his successors in office.

HISTORY: CL 1857, 386;—CL 1871, 520;—How. 528;—CL 1897, 2543;—CL 1915, 2370;—Am. 1925, p. 215, Act 151, Eff. Aug. 27;—CL 1929, 1270;—CL 1948, 48.44.

FORMER LAW: Act 104, 1840, p. 161.

48.45 County treasurers; collection of moneys due for damage to insured public buildings, disposition.

Sec. 45. In case of the destruction of, or damage done to the buildings so insured, the treasurer shall have authority, and it shall be his duty, to demand and receive the moneys which shall be due on account of such insurance, and in case of neglect or refusal to pay the same, he shall sue for and collect such moneys in his name of office whenever directed by the board of supervisors, and pay the same into the county treasury, to be used in repairing or rebuilding such public buildings.

HISTORY: CL 1857, 387;—CL 1871, 521;—How. 529;—CL 1897, 2544;—CL 1915, 2371;—CL 1929, 1271;—CL 1948, 48.45.

48.46 County treasurer's bond; forfeiture, suit.

Sec. 46. Whenever the condition of the county treasurer's bond shall be forfeited, to the knowledge of the board of supervisors of the county, they shall cause such bond to be put in suit.

HISTORY: CL 1857, 388;—CL 1871, 522;—How. 530;—CL 1897, 2545;—CL 1915, 2372;—CL 1929, 1272;—CL 1948, 48.46.

48.47 County treasurer's bond; moneys recovered in suit, disposition.

Sec. 47. All moneys recovered in any such action, shall be applied by the board of supervisors to the use of the county, or to such other use or uses as the same ought properly to be applied to.

HISTORY: CL 1857, 389;—CL 1871, 523;—How. 531;—CL 1897, 2546;—CL 1915, 2373;—CL 1929, 1273;—CL 1948, 48.47.

48.48 County treasurer; location of office.

Sec. 48. The county treasurer shall keep his office at the seat of justice for the county.

HISTORY: CL 1857, 390;—CL 1871, 524;—How. 532;—CL 1897, 2547;—CL 1915, 2374;—CL 1929, 1274;—CL 1948, 48.48.

Secs. 49-52.

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. Secs. 49 and 50 related to office of county judge which office has long since been abolished. Secs. 51 and 52 being CL 1857, 391-2;—CL 1871, 527-8;—How. 533-4;—CL 1897, 2549, (As Am. 1909, p. 69, Act 43, Eff. Sept. 1;—As Am. 1913, p. 125, Act 86, Eff. Aug. 14), 2550;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916, (Jud. Act) related to election, term of office, etc., of a judge of probate.

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Act 161, 1895, p. 309; Eff. Aug. 30.

AN ACT to require county treasurers to furnish transcripts and abstracts of records, and fixing the fees to be paid therefor.

The People of the State of Michigan enact:

48.101 County treasurer's records; transcripts and abstracts; fees, disposition.

Sec. 1. The county treasurers of the several counties shall make or cause to be made, on application therefor, transcripts of any papers or records on file in their offices, upon payment by applicants therefor of the following fees: For abstracts of taxes on any description of land, 10 cents for each year covered by such abstract; for abstracts with statement of name and residence of taxpayers 25 cents per year for each description of land therein; for list of state tax lands or state bids, 10 cents for each description of land therein; for 1 copy of any paper or document at the rate of 25 cents per 100 words; for each certificate, 25 cents: Provided, That for statements in respect to the payment of taxes required by section 135 of Act No. 206 of the Public Acts of 1893, being section 211.135 of the Compiled Laws of 1948, the county treasurer shall receive 10 cents for each description of land contained therein: Provided further, That in no case shall any abstract, list, copy or statement made as required by this act, be furnished for a less sum than 50 cents. All moneys collected under the provisions of this act shall be retained by the county treasurers collecting the same, except in counties in which the county treasurer receives a salary in lieu of all fees, in which counties such moneys shall be placed, by the treasurers, collecting the same, to the credit of the general fund of the county.

HISTORY: Am. 1897, p. 22, Act 21, Eff. Aug. 30;—CL 1897, 2548;—Am. 1899, p. 328, Act 211, Eff. Sep. 23;—Am. 1903, p. 232, Act 173, Eff. Sep. 17;—CL 1915, 2375;—CL 1929, 1275;—CL 1948, 48.101;—Am. 1949, p. 106, Act 101, Imd. Eff. May 17;—Am. 1957, p. 55, Act 49, Eff. Sep. 27.

Act 90, 1919, p. 158; Eff. Aug. 14.

AN ACT to prohibit the establishing or maintaining of any county office in connection with the county treasurer's office in any county in this state, and to provide a separate office for the county treasurer.

The People of the State of Michigan enact:

48.121 County treasurer; maintenance of office in conjunction with other offices prohibited.

Sec. 1. It shall be unlawful to establish or maintain any county office in connection with the county treasurer's office in any county in this state.

HISTORY: CL 1929, 1276;—CL 1948, 48.121.

48.122 County treasurer; separate office provided.

Sec. 2. The boards of supervisors of each county in this state shall provide a separate and distinct office for the county treasurer of their respective county.

HISTORY: CL 1929, 1277;—CL 1948, 48.122.

48.141, 48.142 Repealed. 1968, p. 270, Act 180, Imd. Eff. Jun. 20.

Sections provided for duplicate receipts for money paid into county treasury, record and inspection.

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CHAPTER 49. PROSECUTING ATTORNEYS

CRIMINAL PROCEEDING IN SUPREME COURT

Act 72 of 1887

49.11 Prosecuting attorney; preparation of briefs, attendance at criminal proceedings on supreme court, duties, compensation and expenses.

CONVICTED ALIENS

Act 133 of 1929

49.21 Grounds for deportation of convicted aliens; determination by prosecuting attorney.

49.22 Grounds for deportation of convicted aliens; notification of federal officials.

ASSISTANTS, CLERKS, AND INVESTIGATORS

Act 329 of 1925

49.31 Assistant prosecuting attorneys, investigators and clerical employees; appointment.

49.32 Chief assistant prosecuting attorney; designation, duties.

49.33 Prosecuting attorney; statement of appointments, filing.

49.34 Assistant prosecuting attorneys, investigators and clerical employees; compensation.

49.35 Assistant prosecuting attorneys, investigators and clerical employees; tenure.

ASSISTANT PROSECUTING ATTORNEYS

Act 41 of 1911

49.41 Assistant prosecuting attorneys; appointment.

49.42 Assistant prosecuting attorneys; tenure, duties, oath of office, compensation.

49.43 Construction of act.

SECOND ASSISTANT PROSECUTING ATTORNEYS

Act 393 of 1919

49.51 Second assistant prosecuting attorneys; appointment.

49.52 Second assistant prosecuting attorneys; tenure, duties, oath of office, compensation.

49.53 Construction of act.

MEETINGS OF ASSOCIATION

Act 189 of 1929

49.61 Prosecuting attorneys' association; annual meeting, time and place, notice.

49.62 Prosecuting attorneys' association; duty to inform members as to changes in legislation.

49.63 Repealed.

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Act 15 of 1941

49.71 County civil attorney; employment, compensation.

49.72 Prosecuting attorney; limitation of action in civil matters.

PROSECUTING ATTORNEY

Ch. 14, R.S. 1846 (cont'd.)

49.153 Prosecuting attorney; duties.

49.154 Prosecuting attorney; appearance before magistrate.

49.155 Prosecuting attorney; opinions.

49.158 Prosecuting attorney; acceptance of fees, interest in proceedings prohibited.

49.159 Prosecuting attorney; compensation.

49.160 Prosecuting attorney; temporary appointment by court, powers.

Act 72, 1887, p. 80; Imd. Eff. Apr. 15.

AN ACT to require prosecuting attorneys to appear and conduct criminal proceedings in the supreme court in certain cases, and to provide for the payment of extra compensation therefor.

The People of the State of Michigan enact:

49.11 Prosecuting attorney; preparation of briefs, attendance at criminal proceedings on supreme court, duties, compensation and expenses.

Sec. 1. That in all criminal proceedings removed to the supreme court by writ of error, mandamus or otherwise, it shall be the duty of the prosecuting attorney of the county from which any cause is so removed to prepare a brief on behalf of the people therein, and to furnish the same to the attorney general where such cause is a calendar cause, at least 20 days before the time at which such cause is set for hearing, and in all other cases such prosecuting attorney shall furnish such brief to the attorney general at least 2 days before the time for the hearing of such cause. It shall be the duty of the prosecuting attorney of the county from which any cause is so removed where such cause is made a calendar cause on the request of the attorney general to appear on behalf of the people in the supreme court, and to assist the attorney general to conduct such cause in such court, and for his services in such case such prosecuting attorney

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shall, in addition to his regular salary, receive a reasonable compensation; including his expenses in traveling to and from, and on his attendance in such court, when so requested by the attorney general. Such expenses in traveling to and from and compensation for attendance in such court to be certified to by the attorney general and ascertained and determined by the board of state auditors, and paid by the state out of any funds belonging to the state not otherwise appropriated, and the expenses of preparing and printing any brief or argument prepared in such case shall be paid by the county from which the case is removed.

HISTORY: How. 559a;—Am. 1891, p. 78, Act 75, Eff. Oct. 2;—CL 1897, 2564;—CL 1915, 2413;—CL 1929, 1294;—CL 1948, 49.11.

Act 133, 1929, p. 302; Imd. Eff. May 7.

AN ACT to require prosecuting attorneys to furnish federal authorities with information regarding aliens in certain cases.

The People of the State of Michigan enact:

49.21 Grounds for deportation of convicted aliens; determination by prosecuting attorney.

Sec. 1. Whenever any alien shall be convicted of any felony under the laws of this state, or of any offense involving moral turpitude, it shall be the duty of the prosecuting attorney having charge of the prosecution of such persons so convicted to ascertain if there be grounds upon which the deportation of such alien might be secured under the immigration laws of the United States.

HISTORY: CL 1929, 1295;—CL 1948, 49.21.

49.22 Grounds for deportation of convicted aliens; notification of federal officials.

Sec. 2. In case such investigation results in the discovery of facts material to a proceeding for the deportation of such alien, even though such facts alone may not be sufficient grounds for deportation, it shall be the duty of such prosecuting attorney to forthwith advise the secretary of labor of the United States and other proper federal officials of such facts and any evidence obtainable supporting their existence.

HISTORY: CL 1929, 1296;—CL 1948, 49.22.

Act 329, 1925, p. 498; Eff. Aug. 27.

AN ACT to authorize boards of supervisors to fix the number of assistant prosecuting attorneys, clerks, stenographers and investigators for prosecuting attorneys; to fix the terms of office and salaries of such assistants, clerks, stenographers and investigators, and to define the powers and duties of the same in counties of this state; and to repeal Act No. 101 of the Public Acts of 1913.

The People of the State of Michigan enact:

49.31 Assistant prosecuting attorneys, investigators and clerical employees; appointment.

Sec. 1. In each county of the state of Michigan, the board of supervisors of such counties, at their regular annual meeting, may, by resolution authorize the appointment by the prosecuting attorney of said county of as many assistant prosecuting attorneys as said board of supervisors shall deem necessary, and shall in addition authorize the appointment by said prosecuting attorney, of such investigating officers, clerks,

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stenographers and other clerical employes as said board of supervisors shall deem necessary.

HISTORY: CL 1929, 1297;—CL 1948, 49.31.
FORMER ACT: Act 101 of 1913, being CL 1915, 2422-2430.

49.32 Chief assistant prosecuting attorney; designation, duties.

Sec. 2. The prosecuting attorney shall designate 1 assistant prosecuting attorney as chief assistant prosecuting attorney, who shall in case of the absence, disability or sickness of the prosecuting attorney discharge all the functions and perform all the duties of the office of prosecuting attorney, and in case of the absence, disability or sickness of both the prosecuting attorney and the chief assistant prosecuting attorney, the next ranking assistant shall discharge all the functions and perform all the duties of the office of prosecuting attorney.

HISTORY: CL 1929, 1298;—CL 1948, 49.32.
VACANCIES: See Const. VI, 14, and Sec. 5 of Act 199 of 1923, p. 310, being Compilers' § 201.35.

49.33 Prosecuting attorney; statement of appointments, filing.

Sec. 3. The prosecuting attorney shall, within 10 days after entering on the execution of the duties of his office, file in the office of the county clerk a statement in writing of his appointments, designating 1 assistant prosecuting attorney as chief assistant prosecuting attorney and designating all other assistant prosecuting attorneys in the order in which they shall rank in discharging the functions and performing the duties of the office of prosecuting attorney.

HISTORY: CL 1929, 1299;—CL 1948, 49.33.

49.34 Assistant prosecuting attorneys, investigators and clerical employees; compensation.

Sec. 4. The respective salaries of said assistant prosecuting attorneys and other employes appointed by said prosecuting attorney under this act shall be fixed by the board of supervisors at its regular annual meeting, and shall not be diminished during the term for which they shall be appointed.

HISTORY: CL 1929, 1300;—CL 1948, 49.34.

49.35 Assistant prosecuting attorneys, investigators and clerical employees; tenure.

Sec. 5. Said assistant prosecuting attorneys and other employees appointed by said prosecuting attorney under this act shall hold office during the pleasure of the prosecuting attorney.

HISTORY: CL 1929, 1301;—CL 1948, 49.35.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1929, 1302;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.
ACT REPEALED: Act 101, 1913, CL 1915, 2422-2430.

Act 41, 1911, p. 49; Eff. Aug. 1.

AN ACT authorizing prosecuting attorneys in certain cases to appoint assistant prosecuting attorneys for their respective counties, and prescribing the powers and duties of such assistants.

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The People of the State of Michigan enact:

49.41 Assistant prosecuting attorneys; appointment.

Sec. 1. The prosecuting attorney of any county is hereby authorized and empowered to appoint an assistant prosecuting attorney, by and with the consent of the circuit judge of the judicial circuit in which such county may be situated, which appointment shall be in writing and filed with the clerk of his county.

HISTORY: CL 1915, 2419;—CL 1929, 1303;—CL 1948, 49.41.

ASSISTANCE: For power of prosecutor to procure assistance in certain cases, see Compilers' § 776.18.

49.42 Assistant prosecuting attorneys; tenure, duties, oath of office, compensation.

Sec. 2. Any such assistant prosecuting attorney shall hold his office during the pleasure of the prosecuting attorney appointing him, perform any and all duties pertaining to the office of prosecuting attorney at such time or times as he may be required so to do by the prosecuting attorney and during the absence or disability from any cause of the prosecuting attorney, but he shall be subject to all the legal disqualifications and disabilities of the prosecuting attorney, and shall before entering upon the duties of his office take and subscribe the oath of office prescribed by the constitution of this state and file the same with the county clerk of his county. The compensation of any such assistant prosecuting attorney shall be paid by the prosecuting attorney appointing him.

HISTORY: CL 1915, 2420;—CL 1929, 1304;—CL 1948, 49.42.

49.43 Construction of act.

Sec. 3. This act shall not be construed as repealing any general or local act heretofore passed providing for the appointment, powers, duties or compensation of assistant prosecuting attorneys of any counties.

HISTORY: CL 1915, 2421;—CL 1929, 1305;—CL 1948, 49.43.

BAY COUNTY: See Act 1, P.A. 1887, p. 1, (How. 570-f-j.)

GENESEE COUNTY: See Act 50, P.A. 1899, p. 84.

JACKSON COUNTY: See Act 129, P.A. 1885, p. 131, (How. 570-a-e.)

KALAMAZOO COUNTY: See Act 314, L.A. 1897, p. 24; and Act 586, L.A. 1907, p. 721, Rep. Act 5, L.A. 1931, p. 10.

LAPEER COUNTY: See Act 4, P.A. 1899, p. 5.

MUSKEGON COUNTY: See Act 214, L.A. 1893, p. 1.

OAKLAND COUNTY: See Act 56, P.A. 1901, p. 86, as Am. Act 11, P.A. 1907, p. 13.

ST. CLAIR COUNTY: See Act 222, L.A. 1893, p. 8, as Am. Act 403, L.A. 1901, p. 374.

SAGINAW COUNTY: See Act 14, P.A. 1891, p. 13.

TUSCOLA COUNTY: See Act 9, P.A. 1899, p. 9.

Act 393, 1919, p. 691; Eff. Aug. 14.

AN ACT authorizing prosecuting attorneys to appoint second assistant prosecuting attorneys for their respective counties and prescribing the powers and duties of such assistants, in counties in this state having over 60,000 inhabitants and less than 350,000 inhabitants.

The People of the State of Michigan enact:

49.51 Second assistant prosecuting attorneys; appointment.

Sec. 1. The prosecuting attorney of any county in this state having a population of over 60,000 inhabitants and less than 350,000 inhabitants is hereby authorized and empowered to appoint a second assistant prosecuting attorney, by and with the consent of the circuit judge or the presiding circuit judge of the judicial circuit in which such county may be situated, which appointment shall be in writing and filed with the clerk of his county.

HISTORY: CL 1929, 1306;—CL 1948, 49.51.

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49.52 Second assistant prosecuting attorneys; tenure, duties, oath of office, compensation.

Sec. 2. Any such assistant prosecuting attorney shall hold his office during the pleasure of the prosecuting attorney appointing him, perform any and all duties pertaining to the office of prosecuting attorney at such time or times as he may be required so to do by the prosecuting attorney and during the absence or disability from any cause of the prosecuting attorney, but he shall be subject to all the legal disqualifications and disabilities of the prosecuting attorney, and shall before entering upon the duties of his office, take and subscribe to oath of office prescribed by the constitution of this state and file the same with the county clerk of his county. Any such assistant prosecuting attorney shall be allowed by the county for his services such reasonable compensation as the board of supervisors shall determine.

HISTORY: CL 1929, 1307;—CL 1948, 49.52.

49.53 Construction of act.

Sec. 3. This act shall not be construed as repealing any general or local act heretofore passed providing for the appointment, powers, duties or compensation of assistant prosecuting attorneys of any counties.

HISTORY: CL 1929, 1308;—CL 1948, 49.53.

Act 189, 1929, p. 504; Eff. Aug. 28.

AN ACT to provide for holding meetings of the prosecuting attorneys' association of Michigan, and to defray the expenses incident thereto.

The People of the State of Michigan enact:

49.61 Prosecuting attorneys' association; annual meeting, time and place, notice.

Sec. 1. At such time before the first day of December of each year as the president of the prosecuting attorneys' association shall designate by written notice to all prosecuting attorneys of the state at least a month in advance of the date so selected, the prosecuting attorneys of the state may meet at a place designated by the president for the annual meeting of the prosecuting attorneys' association of Michigan. In case of death, removal or disability of the president of the prosecuting attorneys' association, the duty shall fall upon the vice-president of said association or upon another officer in order of their position according to the constitution and by-laws of such association.

HISTORY: CL 1929, 1309;—Am. 1937, p. 575, Act 301, Eff. Oct. 29;—CL 1948, 49.61;—Am 1952, p. 163, Act 142, Eff. Sep. 18.

49.62 Prosecuting attorneys' association; duty to inform members as to changes in legislation.

Sec. 2. It shall be the duty of the prosecuting attorneys' association to keep the prosecuting attorneys of the state informed of all changes in legislation, law and matters pertaining to their office through the department of the attorney general of the state of Michigan, to the end that a uniform system of conduct, duty and procedure be established in each county of the state.

HISTORY: CL 1929, 1310;—CL 1948, 49.62.

49.63 Repealed. 1952, p. 164, Act 142, Eff. Sep. 18.

Section provided for expenses of prosecuting attorney incurred in attending annual meeting.

Act 15, 1941, p. 13; Eff. Jan. 10, 1942.

AN ACT to authorize boards of supervisors in certain counties to employ an attorney to represent the county in civil matters.

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The People of the State of Michigan enact:

49.71 County civil attorney; employment, compensation.

Sec. 1. The board of supervisors of any county by a majority vote of the members-elect may employ an attorney to represent the county in civil matters, whenever the board determines that the prosecuting attorney is unable to properly represent the county. Such attorney shall receive such compensation as shall be determined by the board of supervisors.

HISTORY: Am. 1945, p. 16, Act 18, Eff. Sep. 6;—CL 1948, 49.71;—Am. 1952, p. 16, Act 16, Eff. Sep. 18;—Am. 1957, p. 13, Act 5, Imd. Eff. Mar. 20.

49.72 Prosecuting attorney; limitation of action in civil matters.

Sec. 2. In case the board of supervisors of any such county shall employ an attorney under this act to represent the county in civil matters, the prosecuting attorney of such county shall not act with respect to such matters, unless requested to do so by the board of supervisors.

HISTORY: CL 1948, 49.72.

R.S. 1846, Ch. 14 (continued).

PROSECUTING ATTORNEY.

49.153 Prosecuting attorney; duties.

Sec. 53. The prosecuting attorneys shall, in their respective counties, appear for the state or county, and prosecute or defend in all the courts of the county, all prosecutions, suits, applications and motions whether civil or criminal, in which the state or county may be a party or interested.

HISTORY: CL 1857, 393;—CL 1871, 529;—How. 551;—CL 1897, 2556;—CL 1915, 2405;—CL 1929, 1286;—CL 1948, 49.153.

RIGHTS: For certain rights denied or granted to prosecutors by the Code of Criminal Procedure, see Compilers' § 776.14 et seq.

DUTIES: See (Code of Criminal Procedure) Compilers' §§ 767.20, 767.22 and 767.41.

The above section as originally enacted was numbered section 54.

49.154 Prosecuting attorney; appearance before magistrate.

Sec. 54. Each prosecuting attorney shall, when requested by any magistrate of the county, appear in behalf of the people of this state before any such magistrate, other than those exercising the police jurisdiction of incorporated cities and villages, and prosecute all complaints made in behalf of the people of this state, of which such magistrate shall have jurisdiction.

HISTORY: CL 1857, 394;—CL 1871, 530;—How. 552;—CL 1897, 2557;—CL 1915, 2406;—CL 1929, 1287;—CL 1948, 49.154.

The above section as originally enacted was numbered section 55.

49.155 Prosecuting attorney; opinions.

Sec. 55. The prosecuting attorneys shall give opinions, in cases where the state or county may be a party or interested, when required by any civil officers in the discharge of their respective official duties relating to the interests of the state or county.

HISTORY: CL 1857, 395;—CL 1871, 531;—How. 553;—CL 1897, 2558;—CL 1915, 2407;—CL 1929, 1288;—CL 1948, 49.155.

The above section as originally enacted was numbered section 56.

Sec. 56.

HISTORY: CL 1857, 396;—Am. 1871, p. 74, Act 59, Eff. July 18;—CL 1871, 532;—How. 554;—Am. 1891, p. 239, Act 180, Imd. Eff. July 1;—CL 1897, 2559;—CL 1915, 2408;—CL 1929, 1289;—Rep. 1937, p. 437, Act 255, Imd. Eff. July 22.

This section provided for reports of prosecuting attorney.

Sec. 57.

HISTORY: CL 1857, 397;—CL 1871, 533;—How. 555;—CL 1897, 2560;—CL 1915, 2409;—CL 1929, 1290;—Rep. 1937, p. 437, Act 255, Imd. Eff. July 22.

This section provided a penalty for neglect to file report required under preceding section.

49.158 Prosecuting attorney; acceptance of fees, interest in proceedings prohibited.

Sec. 58. No prosecuting attorney shall receive any fee or reward from or on behalf of any prosecutor or other individual for services in any prosecution or business to which it shall be his official duty to attend, nor be concerned as attorney or counsel for

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either party other than for the state or county in any civil action depending upon the same state of facts upon which any criminal prosecution commenced or prosecuted shall depend, or in any action for malicious prosecution brought in consequence of any criminal prosecution commenced or prosecuted during his term of office in the county of which he is prosecuting attorney; nor shall any attorney be permitted to prosecute or aid in prosecuting any person for an alleged criminal offense where he is engaged or interested in any civil suit or proceeding depending upon the same state of facts against such person directly or indirectly.

HISTORY: CL 1857, 398;—CL 1871, 534;—Am. 1883, p. 23, Act 32, Eff. Sept. 8;—How. 557;—CL 1897, 2561;—CL 1915, 2410;—CL 1929, 1291;—CL 1948, 49.158.

See (Code of Criminal Procedure) Compilers' § 776.14.

FEES: See (Code of Criminal Procedure) Compilers' § 775.11.

49.159 Prosecuting attorney; compensation.

Sec. 59. The prosecuting attorneys shall severally receive such compensation for their services, as the board of supervisors of the proper county shall, by an annual salary or otherwise, from time to time order and direct.

HISTORY: CL 1857, 399;—CL 1871, 535;—How. 558;—CL 1897, 2562;—CL 1915, 2411;—CL 1929, 1292;—CL 1948, 49.159.

This section as originally enacted was numbered section 60.

49.160 Prosecuting attorney; temporary appointment by court, powers.

Sec. 60. The supreme court and each of the circuit courts may, whenever there shall be no prosecuting attorney for the county, or when the prosecuting attorney shall be absent from the court, or unable to attend to his duties, if either of said courts shall deem it necessary, by an order to be entered in the minutes of such court, appoint some other attorney at law to perform, for the time being, the duties required by law to be performed in either of said courts by the prosecuting attorney, who shall thereupon be vested with all the powers of such prosecuting attorney for that purpose.

HISTORY: CL 1857, 400;—CL 1871, 536;—How. 559;—CL 1897, 2563;—CL 1915, 2412;—CL 1929, 1293;—CL 1948, 49.160.

This section as originally enacted was numbered section 61.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

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CHAPTER 50. COUNTY CLERKS

COUNTY CLERK

Ch. 14, R.S. 1846 (cont'd.)

50.61 County clerk; bond.
50.62 County clerk; bond, condition.
50.63 County clerk; deputies, appointment.
50.64 County clerk; responsibility for deputies, duties.
50.65 County clerk; necessary supplies, procurement, expense.
50.66 County clerk; annual report to secretary of state, contents.
50.67 County clerk; location of office, compensation.

RECORDING OF BONDS AND SECURITIES

Act 147 of 1901

50.101 County clerk; recording of bonds in civil cases.
50.102 County clerk; recording of bonds, fees.
50.103 Record of bonds or certified copy admissible as evidence.

DEPUTIES AND ASSISTANTS

Act 18 of 1921

50.131 County clerk; deputies and assistants, appointment, number; compensation, determination, increase.

R.S. 1846, Ch. 14 (continued).

COUNTY CLERK.

50.61 County clerk; bond.

Sec. 61. The county clerk shall give a bond to the people of the state, in the penal sum of $2,000.00, to be approved by the circuit judge, for the faithful discharge of the duties of his office.

HISTORY: Am. 1853, p. 114, Act 72, Eff. May 16;—CL 1857, 402;—CL 1871, 538;—How. 571;—CL 1897, 2570;—CL 1915, 2431;—CL 1929, 1312;—CL 1948, 50.61;—Am. 1964, p. 391, Act 255, Imd. Eff. May 28.

NOTE: This section as originally enacted was numbered section 62.

50.62 County clerk; bond, condition.

Sec. 62. The condition of such bond shall be in substance as follows: "Whereas, the above bounden ..... hath been elected to the office of clerk of the county of ..... at the general election held therein or at a special election held therein, on the ..... day of .....: Now therefore, the condition of the above obligation is such, that if the said ..... shall faithfully, truly and impartially enter and record all orders, decrees, judgments and proceedings of the courts whereof he shall officiate as clerk, and faithfully and impartially perform all other duties of his said office, and shall pay over all moneys that may come into his hands as such clerk, and shall deliver over to his successor in office all the books, records, papers, seals, and other things belonging to his said office, then the above obligation to be void, otherwise to be and remain in full force."

HISTORY: CL 1857, 403;—CL 1871, 539;—How. 572;—CL 1897, 2571;—CL 1915, 2432;—CL 1929, 1313;—CL 1948, 50.62.

NOTE: This section as originally enacted was numbered section 63.

50.63 County clerk; deputies, appointment.

Sec. 63. Each county clerk shall appoint 1 or more deputies, to be approved by the circuit judge, 1 of whom shall be designated in the appointment as the successor of such clerk in case of vacancy from any cause, and may revoke such appointment at his pleasure, which appointment and revocation shall be in writing, under his hand, and filed in the office of the county treasurer, and the deputy or deputies, may perform the duties of such clerks.

HISTORY: Am. 1850, p. 54, Act 65, Imd. Eff. March 5;—CL 1857, 404;—Am. 1861, p. 227, Act 146, Eff. June 15;—Am. 1871, p. 68, Act 69, Imd. Eff. March 31;—CL 1871, 540;—Am. 1875, p. 145, Act 109, Eff. Aug. 3;—How. 573;—CL 1897, 2572;—CL 1915, 2433;—CL 1929, 1314;—CL 1948, 50.63.

NOTE: This section as originally enacted was numbered section 64.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

SALARY: Of extra deputy paid by board of county road commissioners, see proviso in Compilers' § 224.9.

In lieu of fees, see Act 237 of 1919, being Compilers' § 45.401 et seq.

DEPUTY: Appointment, see Compilers' § 45.41.

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50.64 County clerk; responsibility for deputies, duties.

Sec. 64. That the county clerk and his sureties shall be responsible for the acts of his deputy or deputies, and in case of the death, resignation or removal of the clerk, or in any case of a vacancy by any other means in the said office of clerk, the deputy or deputies shall severally perform all the duties of such clerk until such vacancy shall be filled.

HISTORY: CL 1857, 405;—Am. 1861, p. 227, Act 146, Eff. June 15;—CL 1871, 541;—How. 574;—CL 1897, 2573;—CL 1915, 2434;—CL 1929, 1315;—CL 1948, 50.64.

This section in Act No. 146, 1861, in the body of the act was numbered section 2, but the title referred to it as section 64. As originally enacted this section was numbered section 65.

VACANCIES: Filling, see Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

50.65 County clerk; necessary supplies, procurement, expense.

Sec. 65. The books necessary to be kept and used in the clerks office, and, also, printed calendars for each regular term of court, shall be procured by the clerk, under the direction of the judge of the circuit court, at the expense of the county; and the board of supervisors of the county shall audit and allow the account for such books and calendars, on the certificate of said judge.

HISTORY: CL 1857, 406;—Am. 1871, p. 19, Act 15, Imd. Eff. Feb. 21;—CL 1871, 542;—How. 575;—CL 1897, 2574;—CL 1915, 2435;—CL 1929, 1316;—CL 1948, 50.65.

NOTE: This section as originally enacted was numbered section 66.

50.66 County clerk; annual report to secretary of state, contents.

Sec. 66. The clerk of each county shall transmit to the secretary of state annually, within 1 week after the fourth day of July, a list certified by him, of all justices of the peace of the county, stating the time of their respective elections and their terms of service, their postoffice addresses and whether elected to fill a vacancy, and if so, what vacancy, and whenever the county clerk shall receive information of the death, removal, or resignation of any justice of the peace of his county, it shall be his duty, forthwith, to notify the secretary of state of such vacancy; he shall also annually, immediately after receiving from the township and city clerks of his county the names and postoffice addresses of the township and city officers, transmit to the secretary of state the names and postoffice addresses of the several township and city clerks and supervisors, with the name of the township or city for which they are such clerks and supervisors set opposite their respective names.

HISTORY: CL 1857, 407;—CL 1871, 543;—Am. 1873, p. 50, Act 50, Imd. Eff. March 27;—How. 576;—CL 1897, 2575;—CL 1915, 2436;—CL 1929, 1317;—CL 1948, 50.66.

NOTE: This section as originally enacted was numbered section 67.

50.67 County clerk; location of office, compensation.

Sec. 67. The county clerk shall keep his office at the seat of justice for the county, and shall receive for all services rendered the county in criminal cases and as clerk of the circuit court, and for his services as clerk of the board of supervisors, and as clerk of the board of county and district canvassers, such salary as the board of supervisors may fix; for his services in civil cases and other matters such fees and compensation as shall be provided by law.

HISTORY: CL 1857, 408;—CL 1871, 544;—Am. 1881, p. 359, Act 262, Eff. Sept. 10;—How. 577;—CL 1897, 2576;—CL 1915, 2437;—CL 1929, 1318;—CL 1948, 50.67.

NOTE: This section as originally enacted was numbered section 68.

Act 147, 1901, p. 198; Eff. Sep. 5.

AN ACT to provide for the recording of bonds and other securities by the county clerk in civil cases.

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The People of the State of Michigan enact:

50.101 County clerk; recording of bonds in civil cases.

Sec. 1. That it shall be the duty of the county clerk in all cases where bonds or other obligations are filed in any civil case, either on the law or chancery side of the court, to record such bond or other obligation in a book in the office of such clerk to be kept for such purpose.

HISTORY: CL 1915, 2438;—CL 1929, 1319;—CL 1948, 50.101.

50.102 County clerk; recording of bonds, fees.

Sec. 2. The clerk shall receive the same fees, per folio, for recording such bonds or other obligations as provided by law for recording other papers.

HISTORY: CL 1915, 2439;—CL 1929, 1320;—CL 1948, 50.102.

50.103 Record of bonds or certified copy admissible as evidence.

Sec. 3. The original record of such bond or other obligation so entered by the clerk, or a certified copy thereof, shall be evidence in all courts the same as the original bond would be if produced: Provided, That this act shall not be in force in any county of this state unless the board of supervisors in their respective county shall deem the recording of bonds necessary, as provided for in section 1 of this act, and that the said board of supervisors shall so declare by resolution.

HISTORY: CL 1915, 2440;—CL 1929, 1321;—CL 1948, 50.103.

Act 18, 1921, p. 27; Eff. Aug. 18.

AN ACT to regulate the number and the salaries of deputy circuit court clerks, counter clerks and other clerks and employes of the county clerks in the several counties of the state, and to repeal all acts or parts of acts, whether general, local or special, contravening the provisions of this act.

The People of the State of Michigan enact:

50.131 County clerk; deputies and assistants, appointment, number; compensation, determination, increase.

Sec. 1. In counties having a population of more than 500,000, the county clerk shall appoint a chief deputy circuit court clerk, 1 deputy circuit court clerk for each acting circuit judge in said county, 4 counter clerks and such number of deputy county clerks, and other clerks and employes as may be fixed by the board of supervisors. The salary of said chief deputy circuit court clerk and chief deputy counter clerk shall be 3,000 dollars per year; of the deputy circuit court clerks and counter clerks, shall be 2,500 dollars per year, and such salaries shall be payable in the same manner and at the same time that other county employes are paid, and shall be in lieu of all fees or other compensation. The number and the salaries of the other deputies, clerks, and employes shall be fixed by resolution of the board of supervisors. The board of supervisors in said counties, may, by resolution, provide for increase in said salaries, when, in their judgment, deemed necessary.

HISTORY: CL 1929, 1322;—CL 1948, 50.131.

SALARIES OF DEPUTIES: See Sec. 1 of Act 237 of 1919, being Compilers' § 45.61; Act 74 of 1911, being Compilers' § 45.41.

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CHAPTER 51. SHERIFFS

SHERIFFS

Ch. 14, R.S. 1846 (cont'd.)

51.68 Sheriff; bond, approval.
51.69 Sheriff; bond, condition.
51.70 Sheriff; deputies and special deputies, appointment, revocation; liability of sheriff; bond, amount, condition, payment of premiums.
51.71 Undersheriff; appointment, vacancies.
51.72 Undersheriff; acting as sheriff.
51.73 Sheriff; appointments and revocations, form, filing; oaths of office.
51.74 Sheriff and deputies; renewal of security.
51.75 Sheriff; custody of county jails.
51.78 Repealed.
51.79 Survival of action against sheriff or deputies.
51.82 Sheriff; services to state, payment.
51.83 Sheriff's office; notice, office hours.
51.84 Service of papers at sheriff's office.
51.85 Service of papers on sheriff at county clerk's office.

ELECTION OF NEW SHERIFF

Ch. 147, R.S. 1846

51.128 New sheriff; election, certificate of qualification.
51.129 Former sheriff; ceasing of powers.
51.130 Former sheriff; delivery of property, process, documents and prisoners to successor.
51.131 Former sheriff; instrument of delivery to successor; new sheriff, acknowledgement of receipt.
51.133 Former sheriff; delivery of jail, process documents and prisoners, refusal or neglect.
51.134 Substitute for former sheriff; duties.

POWERS AND DUTIES

Act 2 of 1867

51.221 Sheriffs, undersheriffs and deputies; service of process, powers and duties, fees.

UNDER AND DEPUTY SHERIFFS AND ASSISTANTS

Act 180 of 1919

51.241 Undersheriffs and deputies in counties of 150,000 to 300,000; appointment; compensation, increase.
51.242 Undersheriffs and deputies in counties over 400,000; appointment; compensation.

CHIEF DEPUTY SHERIFF

Act 386 of 1913

51.261 Chief deputy sheriff in counties of 150,000 to 300,000; appointment, tenure.
51.262 Chief deputy sheriff; appointment and oath of office, filing.
51.263 Chief deputy sheriff; powers and duties.
51.264 Chief deputy sheriff; compensation.

COUNTY JAIL RULES AND REGULATIONS

Act 210 of 1945

51.281 County jail rules and regulations; adoption by sheriff, endorsement by circuit court, effect.
51.282 County jail rules and regulations; record of infractions, examination; reduction of sentences, forfeiture, restoration.
51.283 County jail rules and regulations; posting; good behavior allowances, liability of sheriff.

RECOVERY DROWNED BODIES

Act 139 of 1947

51.301 Recovery of drowned bodies; jurisdiction of police chiefs and sheriffs, duties, expenses.
51.302 Recovery of drowned bodies; aid from other public agencies, jurisdiction.

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Act 298 of 1966

51.351 Civil service commission for sheriffs' departments in counties over 400,000; creation; applicability of act.
51.352 Civil service commission; membership, appointment, terms; president, term.
51.353 Civil service commission; members, qualifications; holding other office prohibited; political affiliations.
51.354 Civil service commission; vacancies; removal.
51.355 Civil service commission; clerk.
51.356 Sheriff's department; incumbents, eligibility to permanent appointment under civil service.
51.357 Sheriff's department; appointments, reinstatements, promotions and discharges subject to act; exceptions.
51.358 Civil service commission; aid from board of supervisors and department heads; offices, supplies.
51.359 Civil service commission; powers and duties.
51.360 Civil service examinations; application, contents, filing; refusal by commission, review; physical examination; reinstatements.
51.361 Civil service commission; rules and regulations for examinations.
51.362 Civil service employees; tenure; removal, discharge, reduction or suspension, procedures.
51.363 Civil service examinations, obstructing right to examination or registration, unlawfully furnishing information or impersonating others; penalty.
51.364 Appointment or selection contrary to rules; refusal to comply to or violates act; penalty.
51.365 Civil service commission; definitions.
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51.367 Rescission and repeal of act by electors; ballot, form; referendum.

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R.S. 1846, Ch. 14 (continued).

SHERIFFS.

51.68 Sheriff; bond, approval.

Sec. 68. The sheriff shall give bond to the people of this state in the penal sum of $10,000.00, and with such sufficient sureties, not less than 3 in number, as the judge of the circuit court, or the county judge shall approve.

HISTORY: CL 1857, 409;—CL 1871, 550;—How. 578;—CL 1897, 2577;—CL 1915, 2441;—CL 1929, 1323;—CL 1948, 51.68;—Am. 1964, p. 391, Act 255, Imd. Eff. May 28.

This section as originally enacted was numbered section 69.

FEES: See Compilers' § 775.4.

CORONER AS SHERIFF: See Compilers' § 52.87.

51.69 Sheriff; bond, condition.

Sec. 69. The condition of such bond shall be in substance as follows: "Whereas, the above bounden, ... hath been elected to the office of sheriff of the county of ....., at the general election held therein, (or at a special election held therein), on the ..... day of .....; Now therefore, the condition of the above obligation is such, that if the said ..... shall well and faithfully in all things perform and execute the office of sheriff of the said county of ....., during his continuance in office by virtue of the said election, without fraud, deceit or oppression, and shall pay over all moneys that may come into his hands as such sheriff, then the above obligation to be void, otherwise to be and remain in full force."

HISTORY: CL 1857, 410;—CL 1871, 551;—How. 579;—CL 1897, 2578;—CL 1915, 2442;—CL 1929, 1324;—CL 1948, 51.69.

This section as originally enacted was numbered section 70.

51.70 Sheriff; deputies and special deputies, appointment, revocation; liability of sheriff; bond, amount, condition, payment of premiums.

Sec. 70. Each sheriff may appoint 1 or more deputy sheriffs at his pleasure, and may revoke such appointments at any time; and persons may also be deputed by any sheriff, by an instrument in writing, to do particular acts, who shall be known as special deputies and each sheriff may revoke such appointments at any time. No sheriff shall be responsible for the acts, defaults and misconduct in office of any deputy sheriff. Such appointed deputy or deputies, other than special deputies, before entering upon the duties of their office shall execute and file with the county clerk an official bond running to the people of this state in the amount of at least $2,500.00 as shall be prescribed by the board of supervisors of the county, conditioned in the same manner as the bond required of the sheriff, and with sufficient sureties as the presiding judge of the circuit court for such county shall approve. A county by resolution of its board of supervisors may pay premiums on the bonds or in lieu of the bonds provide a bond, and pay premiums thereon, running to the people of this state in the amount of at least $2,500.00 as shall be prescribed by the board of supervisors. For all such deputies other than special deputies the bond shall be conditioned in the same manner as the bond required for the sheriff and have sufficient sureties.

HISTORY: Am. 1847, p. 168, Act 105, Eff. May 16;—CL 1857, 411;—CL 1871, 552;—How. 580;—CL 1897, 2579;—CL 1915, 2443;—CL 1929, 1325;—CL 1948, 51.70;—Am. 1952, p. 125, Act 110, Eff. Sep. 18;—Am. 1954, p. 326, Act 137, Eff. Aug. 13;—Am. 1959, p. 211, Act 150, Eff. Mar. 19, 1960;—Am. 1969, p. 363, Act 183, Imd. Eff. Aug. 5.

This section as originally enacted was numbered section 71.

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51.71 Undersheriff; appointment, vacancies.

Sec. 71. The sheriff of each county shall, as soon as may be after entering upon the execution of his office, appoint some proper person under sheriff of the same county, who shall also be a general deputy, to hold during the pleasure of such sheriff; and as often as a vacancy shall occur in the office of such under sheriff, or he become incapable of executing the same, another shall in like manner be appointed in his place.

HISTORY: CL 1857, 412;—CL 1871, 553;—How. 581;—CL 1897, 2580;—CL 1915, 2444;—CL 1929, 1326;—CL 1948, 51.71.

This section as originally enacted was numbered section 72.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

51.72 Undersheriff; acting as sheriff.

Sec. 72. Whenever a vacancy shall occur in the office of sheriff of any county, the under sheriff of such county shall in all things execute the office of sheriff, until a sheriff shall be elected and qualified; and any default or misfeasance in office of such under sheriff in the meantime, as well as before, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed him, and also a breach of the condition of the bond executed by such under sheriff to the sheriff by whom he was appointed.

HISTORY: CL 1857, 413;—CL 1871, 554;—How. 582;—CL 1897, 2581;—CL 1915, 2445;—CL 1929, 1327;—CL 1948, 51.72.

This section as originally enacted was numbered section 73.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

51.73 Sheriff; appointments and revocations, form, filing; oaths of office.

Sec. 73. Every appointment of an under sheriff, or of a deputy sheriff, and every revocation thereof, shall be in writing under the hand of the sheriff, and shall be filed and recorded in the office of the clerk of the county; and every such under sheriff or deputy shall, before he enters upon the duties of his office, take the oath prescribed by the twelfth article of the constitution of this state. But this section shall not extend to any person who may be deputed by any sheriff to do a particular act only.

HISTORY: CL 1857, 414;—CL 1871, 555;—How. 583;—CL 1897, 2582;—CL 1915, 2446;—CL 1929, 1328;—CL 1948, 51.73.

This section as originally enacted was numbered section 74.

51.74 Sheriff and deputies; renewal of security.

Sec. 74. It shall be the duty of every sheriff, within 20 days after the first Monday in January, in each year subsequent to that in which he shall have entered on the duties of his office, and it shall be the duty of every deputy sheriff prior to the expiration of his official bond, to renew the security required to be given by him before entering upon the duties of his office; which renewed security shall be in the same amount, and be given in the same manner, and be subject in all respects to the same regulations, as the original security required from such sheriff and deputy sheriff.

HISTORY: CL 1857, 415;—CL 1871, 556;—How. 584;—CL 1897, 2583;—CL 1915, 2447;—CL 1929, 1329;—CL 1948, 51.74;—Am. 1952, p. 125, Act 110, Eff. Sep. 18.

This section as originally enacted was numbered section 75.

51.75 Sheriff; custody of county jails.

Sec. 75. The sheriff shall have the charge and custody of the jails of his county, and of the prisoners in the same; and shall keep them himself, or by his deputy or jailer.

HISTORY: CL 1857, 416;—CL 1871, 557;—How. 585;—CL 1897, 2584;—CL 1915, 2448;—CL 1929, 1330;—CL 1948, 51.75;—Am. 1952, p. 125, Act 110, Eff. Sep. 18.

This section as originally enacted was numbered section 76.

Sec. 76.

HISTORY: CL 1857, 417;—CL 1871, 558;—How. 586;—Am. 1887, p. 29, Act 30, Eff. Sept. 28;—CL 1897, 2585;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916, (Jud. Act).

This section related to execution of process by sheriffs or undersheriffs.

Sec. 77.

HISTORY: CL 1857, 418;—CL 1871, 559;—How. 587;—CL 1897, 2586;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

This section provided when sheriffs might execute process after their expiration of term of office.

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51.78 Repealed. 1952, p. 125, Act 110, Eff. Sep. 18.

Section provided that default of deputy should be adjudged a breach of sheriff's bond.

51.79 Survival of action against sheriff or deputies.

Sec. 79. Any action for the malfeasance, misfeasance, or nonfeasance of a sheriff or any of his deputies, may be prosecuted against the executors or administrators of such sheriff, in like manner as if the cause of action survived at common law.

HISTORY: CL 1857, 420;—CL 1871, 561;—How. 589;—CL 1897, 2588;—CL 1915, 2450;—CL 1929, 1332;—CL 1948, 51.79.

This section as originally enacted was numbered section 80.

Sec. 80.

HISTORY: CL 1857, 421;—CL 1871, 562;—How. 590;—CL 1897, 2589;—Rep. 1929, p. 827, Act 309, Imd. Eff. May 24.

This sections was superseded and re-enacted 1915, p. 25, Sec. 80, Ch. 2, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

Sec. 81.

HISTORY: CL 1857, 422;—CL 1871, 563;—How. 591;—CL 1897, 2590;—Rep. 1929, p. 827, Act 309, Imd. Eff. May 24.

This section was superseded and re-enacted 1915, p. 25, Sec. 81, Ch. 2, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

51.82 Sheriff; services to state, payment.

Sec. 82. Whenever a sheriff shall be required, by any statutory provision, to perform any service in behalf of the people of this state, and for their benefit, which shall not be made chargeable by law to his county, or to some officer or other person, his account for such services shall be audited by the auditor general and paid out of the state treasury.

HISTORY: CL 1857, 423;—CL 1871, 564;—How. 592;—CL 1897, 2591;—CL 1915, 2451;—CL 1929, 1333;—CL 1948, 51.82.

This section as originally enacted was numbered section 83.

51.83 Sheriff's office; notice, office hours.

Sec. 83. It shall be the duty of the sheriff of every county to keep an office at the place where the courts for such county are held, of which he shall file a notice in the office of the clerk of the county; and to keep the same open during the usual business hours each day, Sundays excepted.

HISTORY: CL 1857, 424;—CL 1871, 565;—How. 593;—CL 1897, 2592;—CL 1915, 2452;—CL 1929, 1334;—CL 1948, 51.83.

This section as originally enacted was numbered section 84.

51.84 Service of papers at sheriff's office.

Sec. 84. Every notice or other paper which shall be required to be served on any sheriff, may be served by leaving the same at the office designated by him in such notice, during the hours for which it is required to be kept open; but if there be any person belonging to such office therein, such notice or paper shall be delivered to such person; and every such service shall be deemed equivalent to a personal service on such sheriff.

HISTORY: CL 1857, 425;—CL 1871, 566;—How. 594;—CL 1897, 2593;—CL 1915, 2453;—CL 1929, 1335;—CL 1948, 51.84.

This section as originally enacted was numbered section 85.

51.85 Service of papers on sheriff at county clerk's office.

Sec. 85. If no notice shall be filed by any sheriff with the county clerk as herein required, the service of all papers on such sheriff may be made by leaving them at the office of the county clerk; with such clerk or his deputy; and the same shall be deemed equivalent to a personal service on such sheriff.

HISTORY: CL 1857, 426;—CL 1871, 567;—How. 595;—CL 1897, 2594;—CL 1915, 2454;—CL 1929, 1336;—CL 1948, 51.85.

This section as originally enacted was numbered section 86.

R.S. 1846, Ch. 147.

ELECTION OF NEW SHERIFF.

Secs. 1-27.

HISTORY: CL 1857, 5548-5574;—CL 1871, 7335-7361;—How. 8912-8938;—CL 1897, 10505-10531;—Rep. 1945, p. 410, Act 267, Imd. Eff. May 25;—superseded by Secs. 22-48 of Ch. 25 of (Jud. Act) Act 314 of 1915.

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51.128 New sheriff; election, certificate of qualification.

Sec. 28. Whenever any new sheriff shall be elected in the place of any other, or upon the expiration of any sheriff's office, and shall have qualified and given the security required by law, the clerk of the county shall grant a certificate, under the seal of the circuit court for the county, that the person so elected has qualified and given such security.

HISTORY: CL 1857, 427;—CL 1871, 569;—How. 597;—CL 1897, 2600;—CL 1915, 2464;—CL 1929, 1356;—CL 1948, 51.128.

51.129 Former sheriff; ceasing of powers.

Sec. 29. Upon the service of such certificate on the former sheriff, his powers as such sheriff, except in the cases otherwise expressly provided by law, shall cease.

HISTORY: CL 1857, 428;—CL 1871, 570;—How. 598;—CL 1897, 2601;—CL 1915, 2465;—CL 1929, 1357;—CL 1948, 51.129.

51.130 Former sheriff; delivery of property, process, documents and prisoners to successor.

Sec. 30. Within 10 days after the service of such certificate upon such former sheriff, he shall deliver to his successor,

First. The jail of the county, with all its appurtenances, and the property of the county therein:

Second. All the prisoners then confined in such jail:

Third. All process, orders, rules, commitments and all other papers or documents in his custody, authorizing, or relating to, the confinement of such prisoners; and if any such process shall have been returned a statement in writing of the contents thereof, and when returned:

Fourth. All writs of capias ad respondendum, and other original process, and all precepts and other documents, for the summoning of a grand or petit jury, then in his hands, which shall not have been fully executed by him:

Fifth. All executions, attachments and final process then in his hands, except such as the said former sheriff shall have executed, or shall have begun to execute by the collection of money thereon, or by a levy on property in pursuance thereof.

HISTORY: CL 1857, 429;—CL 1871, 571;—How. 599;—CL 1897, 2602;—CL 1915, 2466;—CL 1929, 1358;—CL 1948, 51.130.

51.131 Former sheriff; instrument of delivery to successor; new sheriff, acknowledgement of receipt.

Sec. 31. At the time of such delivery, the said former sheriff shall execute an instrument, reciting the property, process, documents and prisoners delivered, specifying particularly, the process or other authority by which each prisoner was committed, and is detained, and whether the same be returned or delivered to such new sheriff; which instrument shall be delivered to such new sheriff, who shall acknowledge in writing upon a duplicate thereof, the receipt of the property, process documents, and prisoners therein specified, and shall deliver such duplicate and acknowledgment to the said former sheriff.

HISTORY: CL 1857, 430;—CL 1871, 572;—How. 600;—CL 1897, 2603;—CL 1915, 2467;—CL 1929, 1359;—CL 1948, 51.131.

Sec. 32.

HISTORY: CL 1857, 431;—CL 1871, 573;—How. 601;—CL 1897, 2604;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

This section related to power of former sheriffs in relation to certain process.

51.133 Former sheriff; delivery of jail, process documents and prisoners, refusal or neglect.

Sec. 33. If any former sheriff shall neglect or refuse to deliver to his successor, the jail, process documents and prisoners in his charge, as herein required, such successor may notwithstanding take possession of such jail, and take the custody of the prisoners therein confined, and may compel the delivery of such process and documents, in the

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manner prescribed in the one hundred and thirty-third chapter of these Revised Statutes.

HISTORY: CL 1857, 432;—CL 1871, 574;—How. 602;—CL 1897, 2605;—CL 1915, 2468;—CL 1929, 1360;—CL 1948, 51.133.

NOTE: The Ch. 133, above referred to, is superseded by Compilers' §§ 639.1 to 639.9, which in turn was repealed. See § 600.2920.

51.134 Substitute for former sheriff; duties.

Sec. 34. If at the time when any new sheriff shall have qualified and given the security required by law, the office of the former sheriff shall be executed by his under sheriff, or by a coroner of the county, such under sheriff or coroner, shall in all things comply with the preceding provisions, and shall perform the duties required of such former sheriff.

HISTORY: CL 1857, 433;—CL 1871, 575;—How. 603;—CL 1897, 2606;—CL 1915, 2469;—CL 1929, 1361;—CL 1948, 51.134.

Act 2, 1867, p. 2; Imd. Eff. Jan. 31.

AN ACT to enlarge the powers and duties of sheriffs, under and deputy sheriffs.

The People of the State of Michigan enact:

51.221 Sheriffs, undersheriffs and deputies; service of process, powers and duties, fees.

Sec. 1. That any sheriff, under sheriff, or deputy sheriff, of any county of this state, may and shall hereafter be fully authorized to serve or execute any and all process, civil or criminal, issued, or which may by law be issued by any justice of the peace, and to have and to exercise all the powers and duties of constables; and for such services they shall be entitled to the same fees as are now, or may be, allowed by law to constables in like cases.

HISTORY: CL 1871, 568;—Am. 1881, p. 9, Act 12, Imd. Eff. Feb. 23;—How. 596;—CL 1897, 2595;—CL 1915, 2455;—CL 1929, 1337;—CL 1948, 51.221.

SHERIFF'S FEES: For similar provisions allowing constables' fees to sheriffs, see Compilers' § 775.4.

CONSTABLE'S FEES: In criminal cases, see Compilers' § 775.3.

Act 180, 1919, p. 323; Eff. Aug. 14.

AN ACT to regulate the number and the salaries of under-sheriffs, deputy sheriffs and other clerks and employes of the sheriffs in the several counties of the state; and to repeal all acts or parts of acts, whether general, local, or special, contravening the provisions of this act.

The People of the State of Michigan enact:

51.241 Undersheriffs and deputies in counties of 150,000 to 300,000; appointment; compensation, increase.

Sec. 1. In counties having a population of 150,000 and not more than 300,000, the sheriff shall appoint an under-sheriff, a chief deputy sheriff who shall be a competent accountant and shall keep the books of the office, and such number of deputy sheriffs as shall be fixed by resolution of the board of supervisors. The under-sheriff and the chief deputy sheriff in such counties shall each receive a salary of 2,000 dollars per year, payable monthly, in lieu of all fees or other compensation. The deputy sheriffs shall each receive a salary of 1,200 dollars per year, payable monthly, in lieu of all fees or other compensation. The board of supervisors in such counties may by resolution provide for increase in said salaries, when, in their judgment, deemed necessary.

HISTORY: CL 1929, 1338;—CL 1948, 51.241.

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51.242 Undersheriffs and deputies in counties over 400,000; appointment; compensation.

Sec. 2. In counties having a population of more than 400,000, the sheriff shall appoint an undersheriff, who shall also be the chief deputy sheriff, and such number of deputy sheriffs, and other clerks and employees as may be fixed by the board of supervisors. The annual salary of the undersheriff inclusive of his duties as chief deputy sheriff, and the number of deputies, clerks and employees, and their annual salaries, shall be fixed by resolution of the board of supervisors, to be payable monthly in lieu of all fees or other compensation. The board of supervisors may provide that deputy sheriffs solely engaged in the service of civil process shall receive as compensation, fees for such service, in lieu of salary.

HISTORY: CL 1929, 1339;—Am. 1935, p. 183, Act 115, Eff. Sep. 21;—CL 1948, 51.242;—Am. 1961, p. 338, Act 204, Eff. Sep. 8.

Act 386, 1913, p. 732; Eff. Aug. 14.

AN ACT to authorize the sheriff of any county having a population of not less than 150,000 and not more than 300,000, to appoint a chief deputy sheriff for said county, and prescribing his duties, powers and compensation.

The People of the State of Michigan enact:

51.261 Chief deputy sheriff in counties of 150,000 to 300,000; appointment, tenure.

Sec. 1. The sheriff of any county, having a population of not less than 150,000 and not more than 300,000, is hereby authorized and empowered to appoint a chief deputy sheriff for said county, and may revoke such appointment at pleasure.

HISTORY: CL 1915, 2458;—CL 1929, 1342;—CL 1948, 51.261.

51.262 Chief deputy sheriff; appointment and oath of office, filing.

Sec. 2. Such appointment shall be in writing under the hand of said sheriff and shall be filed in the office of the clerk of said county; the person so appointed, before entering upon the duties of the said office, shall take the oath prescribed in the constitution of the state of Michigan and file the same together with his acceptance, with the county clerk of said county.

HISTORY: CL 1915, 2459;—CL 1929, 1343;—CL 1948, 51.262.

51.263 Chief deputy sheriff; powers and duties.

Sec. 3. The said chief deputy sheriff shall perform the like duties and have like power and authority with that of under sheriff of such county.

HISTORY: CL 1915, 2460;—CL 1929, 1344;—CL 1948, 51.263.

51.264 Chief deputy sheriff; compensation.

Sec. 4. The said chief deputy sheriff shall receive an annual salary of 2,000 dollars, payable monthly, and shall receive no other fees or compensation whatsoever for any act or acts performed by him in connection with the said office.

HISTORY: CL 1915, 2461;—CL 1929, 1345;—CL 1948, 51.264.

Act 210, 1945, p. 282; Eff. Sep. 6.

AN ACT to authorize county sheriffs to adopt rules and regulations for the conduct of prisoners in their custody; to provide for the keeping of certain records in connection with said prisoners; and to credit said prisoners with good behavior allowance for obeying said rules and regulations.

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The People of the State of Michigan enact:

51.281 County jail rules and regulations; adoption by sheriff, endorsement by circuit court, effect.

Sec. 1. The sheriff of any county may prescribe rules and regulations for the conduct of prisoners in his custody, which rules and regulations shall be submitted to the circuit judge or judges in said county or circuit for approval, and upon the endorsement of such judge or judges the said rules and regulations shall be deemed to be effective as far as this act is concerned: Provided, That in counties located in any judicial circuit having more than 1 circuit judge, where 1 of said judges shall be designated as presiding judge, the approval and endorsement of said rules and regulations by said presiding judge shall be sufficient to place said rules and regulations in force and effect.

HISTORY: CL 1948, 51.281.

51.282 County jail rules and regulations; record of infractions, examination; reduction of sentences, forfeiture, restoration.

Sec. 2. The sheriff shall cause to be kept a record of each and all infractions of the rules and regulations by prisoners, with the names of the persons so offending and the date and character of each offense, and it shall be the duty of such sheriff to examine such records as often as may be necessary to carry out the purpose and intent of this act.

Every prisoner whose record shows that there are no violations of the rules and regulations shall be entitled to a reduction from his sentence as follows: 5 days for each month of the sentence. The sheriff may, by general rule, subject to amendment from time to time, prescribe how much of the good time earned under the foregoing provisions a prisoner shall forfeit for any infraction of the general rules and regulations, and for any act of insubordination the sheriff may by special order take away any portion of or the whole of the good time made by any prisoner up to the date of such offense. The sheriff may as a reward for especially good conduct, in case of insubordination, restore to any prisoner the whole or any portion of the good time lost because of any minor infraction of the rules. The sheriff, in computing the diminution of time for those prisoners now in jail, shall allow them good time made up to the effective date of this act in accordance with the provisions hereof, based on the records now kept by said sheriff and thereafter it shall be computed in accordance with the records provided herein to be kept.

HISTORY: CL 1948, 51.282.

51.283 County jail rules and regulations; posting; good behavior allowances, liability of sheriff.

Sec. 3. A copy of the rules and regulations, and good behavior allowances for obedience thereto and compliance therewith shall be posted in such place or places in the county jail as will enable all persons imprisoned therein to become acquainted therewith, and it shall be the duty of each prisoner entitled to release with the credit for good behavior allowance to call to the attention of the sheriff or any of his deputies the fact that he is entitled to release, and no sheriff shall be liable to respond to any prisoner or former prisoner in damages in any form of action, particularly false imprisonment, if any excess time up to the maximum of the original sentence without good behavior allowance be served.

HISTORY: CL 1948, 51.283.

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Act 139, 1947, p. 190; Eff. Oct. 11.

AN ACT to prescribe the powers and duties of certain public officers with respect to the recovery of the bodies of persons drowned in the waters over which the state of Michigan has jurisdiction.

The People of the State of Michigan enact:

51.301 Recovery of drowned bodies; jurisdiction of police chiefs and sheriffs, duties, expenses.

Sec. 1. In case any person is drowned in waters within the corporate limits of any city, it shall be the duty of the chief of police of said city, and in case any person is drowned in waters outside the corporate limits of a city, it shall be the duty of the sheriff of the county within which such waters are situated, to use every available means in the recovery of any such body. The several chiefs of police of cities and sheriffs of this state are hereby authorized to incur such expenses as shall be necessary in obtaining equipment and in doing the necessary acts in carrying out their duties under the provisions of this act.

HISTORY: CL 1948, 51.301.

51.302 Recovery of drowned bodies; aid from other public agencies, jurisdiction.

Sec. 2. Any chief of police of a city or sheriff, in the recovery of any body drowned in the waters under his jurisdiction, may call upon the Michigan state police, officers of the department of conservation, the chief of police of another city, the sheriff of another county, or other public agencies for assistance in the recovery of any such body; and any such officer may exercise authority and powers outside his own jurisdiction, in rendering the same as if he was in his own jurisdiction.

HISTORY: CL 1948, 51.302.

Act 298, 1966, p. 503; Imd. Eff. Jul. 14.

AN ACT to establish and provide a board of civil service commissioners for sheriffs' departments in certain counties; to provide a civil service system based upon examination and investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men appointed in the departments; to regulate the transfer, reinstatement, suspension and discharge of said officers; and to provide for referendums.

The People of the State of Michigan enact:

51.351 Civil service commission for sheriffs' departments in counties over 400,000; creation; applicability of act.

Sec. 1. Within 30 days after this act shall take effect there may be created a civil service commission in sheriffs' departments in all counties containing not less than 400,000 population, except that this act shall not apply in counties where the provisions of Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.428 of the Compiled Laws of 1948, are in force.

HISTORY: New 1966, p. 503, Act 298, Imd. Eff. Jul. 14.

51.352 Civil service commission; membership, appointment, terms; president, term.

Sec. 2. The civil service commission shall consist of 3 members, 2 of whom shall be appointed by the board of supervisors, 1 to be appointed for 2 years and 1 to be ap-

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pointed for 6 years. The third member of the commission shall be elected by the members of the sheriff's department and he shall serve for a period of 4 years from the date of his appointment; a majority vote of the members of the sheriff's department shall be necessary to select such member. Thereafter, all appointments shall be made for a period of 6 years each; each commissioner shall serve until his successor is appointed and qualified by the appointing power hereinbefore designated.

The commission shall elect one of their number to act as president of the commission, who shall serve for 1 year.

HISTORY: New 1966, p. 503, Act 298, Imd. Eff. Jul. 14.

51.353 Civil service commission; members, qualifications; holding other office prohibited; political affiliations.

Sec. 3. No person shall be appointed a member of the commission who is not a citizen of the United States and an elector of the county for a period of at least 3 years immediately preceding his appointment. No commissioner shall hold any other elective office, place or position under the United States, state of Michigan, or any city, county or other political subdivision thereof; nor shall any commissioner serve on any political committee or take any active part in the management of any political campaign. Not more than 2 of the commissioners, at any one time, shall be adherents of the same political party.

HISTORY: New 1966, p. 504, Act 298, Imd. Eff. Jul. 14.

51.354 Civil service commission; vacancies; removal.

Sec. 4. In event that any commissioner ceases to be a member thereof by virtue of death, removal or other cause, a new commissioner shall be appointed to fill out the unexpired term within 10 days after the vacancy occurs. The appointment shall be made by the body who in the first instance appointed the commissioner who is no longer a member of the commission. The board of supervisors may remove any commissioner for incompetency, dereliction of duty, malfeasance in office or any other good cause, which shall be stated in writing and made a part of the records of the commission. A copy of the removal shall be served on the commissioner forthwith. Once the board has removed any commissioner, the removal shall be temporary only and shall be in effect for a period of 10 days. If at the end of 10 days the commissioner fails to make answer thereto, he shall be deemed removed; otherwise the board shall file in the circuit court a petition setting forth in full the reason for the removal and praying for the confirmation by the circuit court of the action of the board in removing the commissioner. A copy of the petition, in writing, shall be served upon the commissioner so removed simultaneously with its filing in the circuit court and shall have precedence on the docket of the court and shall be heard as soon as the removed commissioner shall demand. All rights hereby vested in the circuit court may be exercised by the judge thereof during a vacation. If no term of court is being held at the time of filing of the petition, and the judge thereof cannot be reached in the county wherein the petition was filed, the petition shall be heard at the next succeeding term of the circuit court, whether regular or special, and the commissioner so suspended shall remain suspended until a hearing is had upon the petition of the board. The court, or the judge thereof, in vacation, shall hear and decide upon the petition. The contestant against whom the decision of the court or judge thereof, in vacation, shall be rendered, shall have the right of appearing in person and by counsel and presenting his defense and to petition the supreme court for a review of the decision of the circuit court, or the judge thereof in vacation, as in chancery cases. If the board fails to file this petition in the circuit court within 10 days after the removal of the commissioner, he shall immediately resume his position as a member of the civil service commission.

HISTORY: New 1966, p. 504, Act 298, Imd. Eff. Jul. 14.

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51.355 Civil service commission; clerk.

Sec. 5. The county clerk shall be clerk of the civil service commission and shall supply to the commission without extra compensation all necessary clerical and stenographic services for the work of the civil service commission.

HISTORY: New 1966, p. 504, Act 298, Imd. Eff. Jul. 14.

51.356 Sheriff's department; incumbents, eligibility to permanent appointment under civil service.

Sec. 6. For the benefit of the public service and to prevent delay, injury or interruption therein by reason of the enactment of this act, all persons holding a position in the sheriff's department, except the sheriff and undersheriff, when this act takes effect, who shall have served in such position for a period of at least 6 months last past continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently under civil service into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation. Any employee with less than 6 months' service shall be classed as a probationer under this act.

HISTORY: New 1966, p. 504, Act 298, Imd. Eff. Jul. 14.

51.357 Sheriff's department; appointments, reinstatements, promotions and discharges subject to act; exceptions.

Sec. 7. After the date this act takes effect, appointments to and promotions in sheriffs' departments subject to this act shall be made only according to qualifications and fitness to be ascertained by examinations, which shall be competitive, and no person shall be appointed, reinstated, promoted or discharged as a member of the department regardless of rank or position, in any manner or by any means other than those prescribed in this act. The positions of undersheriff and departmental heads are exempt from the operation of this act, and the sheriff shall have the sole power and authority to fill such positions.

HISTORY: New 1966, p. 505, Act 298, Imd. Eff. Jul. 14.

51.358 Civil service commission; aid from board of supervisors and department heads; offices, supplies.

Sec. 8. It shall be the duty of the board of supervisors and heads of departments to aid the civil service commission in all proper ways in carrying out the provisions of this act, to allow the reasonable use of public buildings, and to cause suitable and convenient rooms and accommodations to be assigned and provided and furnished, heated and lighted for carrying on the work and examinations of the civil service commission, and in all proper ways to facilitate the same. The civil service commission may order from the proper authorities the necessary stationery, postage stamps, official seal and other articles to be supplied, and the necessary printing to be done, for its official use.

HISTORY: New 1966, p. 505, Act 298, Imd. Eff. Jul. 14.

51.359 Civil service commission; powers and duties.

Sec. 9. The civil service commission, within the terms of this act, shall:

(1) Adopt and enforce rules and regulations for carrying into effect the provisions of this act. All rules so prepared may be added to, amended or rescinded.

(2) Keep minutes of its own proceedings and records of its examinations and other official actions. All recommendations of applicants for office, received by the commission or by any officer having authority to make appointments to office, shall be kept

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and preserved for a period of 10 years; and all such records, recommendations of former employers accepted, and all written causes of removal, filed with it, subject to reasonable regulation, shall be open to public inspection. It shall keep a roster of the members of the department, together with a record of service, military or naval experience, file statements on all matters relating to the character and quality of the work done and the attitude of the individual to his work and such other matters as may have a bearing on promotion, transfer or discharge.

(3) Make investigations concerning all matters touching the enforcement and effect of the provisions of this act and the rules and regulations prescribed thereunder, and concerning the action of any examiner or subordinate of the commission or any person in the public service in respect to the execution of this act; and in the course of such investigations any commissioner may administer oaths and affirmations and take testimony.

(4) Make an annual report to the board of supervisors showing its own action, and rules and regulations with all exceptions thereto in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishments of the purpose of this act. The reports shall be available for public inspection 5 days after the same shall have been delivered to the board of supervisors.

HISTORY: New 1966, p. 505, Act 298, Imd. Eff. Jul. 14.

51.360 Civil service examinations; application, contents, filing; refusal by commission, review; physical examination; reinstatements.

Sec. 10. (a) The civil service commission shall require persons applying for admission to any examination provided for under this act or under the rules and regulations of the commission to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

(1) His full name, residence and post office address.

(2) His citizenship, age, and the place and date of his birth.

(3) His health, and his physical capacity for public service.

(4) His business and employments and residence for at least 3 years previous to his application. The commission shall establish educational requirements, but in no case shall the requirements call for less than an eighth grade education or its equivalent.

(5) Such other information as may reasonably be required, touching the applicant's qualifications and fitness for the public service.

Blank forms; certificate; refusal to certify; review; judicial review of decision.

(b) Blank forms for such applications shall be furnished by the commission without charge to all persons requesting same. The commission may require in connection with the application such certificate of citizens, physicians or others having knowledge of the applicant as the good of the service may require. The commission may refuse to examine an applicant or, after examination, to certify as eligible one who is found to lack any of the established preliminary requirements for the examination of position or employment for which he applied; or who is physically so disabled as to be rendered unfit for the performance of the duties of the position to which he seeks appointment; or who is addicted to the habitual use of intoxicating liquors or drugs; or who may have been guilty of any crime or infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in his application, in his examination, or in securing his eligibility; or who refuses to comply with the rules and regulations of the commission. If any applicant feels himself aggrieved by the action of the commission in refusing to examine

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him or, after an examination, to certify him as an eligible, as provided in this section, the commission, at the request of the applicant, shall appoint a time and a place for a public hearing, at which time the applicant may appear, by himself or counsel, or both, and the commission shall then review its refusal to make such examination or certifications, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by him. After review, the commission shall file the testimony taken in its records and shall again make a decision, which decision shall be reviewable on writ of certiorari.

Physical examinations; age; residence; former employee, reinstatement.

(c) All applicants for any position in the department shall undergo a physical examination, which shall be conducted under the supervision of a commission composed of 2 doctors of medicine appointed for the commission by the board of supervisors. The commission shall certify that an applicant is free from any bodily or mental defects, deformity or diseases that might incapacitate him from the performance of the duties of the position desired before the applicant shall be permitted to take further examinations. No application will be received if the person applying is less than 21 years of age and has been a resident of the county for less than 3 months at the date of his application. If any applicant has formerly served in the department of the county to which he makes application for a period of more than 10 years, and has resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against such applicant within a period of 2 years next preceding the date of his application, and is a resident of the county, then such person shall be eligible for reinstatement in the discretion of the civil service commission. The applicant, providing his former term of service so justifies, may be reappointed to the department without examination other than a physical examination; if such person shall be reinstated to the department, he shall be the lowest in rank in the department next above the probationers of the department.

HISTORY: New 1966, p. 505, Act 298, Imd. Eff. Jul. 14.

51.361 Civil service commission; rules and regulations for examinations.

Sec. 11. The civil service commission shall make rules and regulations providing for examinations of positions in the departments under this act, for appointments and for such other matters as are necessary to carry out the purposes of this act.

HISTORY: New 1966, p. 507, Act 298, Imd. Eff. Jul. 14.

51.362 Civil service employees; tenure; removal, discharge, reduction or suspension, procedures.

Sec. 12. The tenure of everyone holding an office, place, position or employment under the provisions of this act shall be only during good behavior and efficient service; and any such person may be removed or discharged, suspended without pay, or deprived of vacation privileges or other special privileges by the appointing officer for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment to the public, neglect of duty, violation of the provisions of this act or the rules of the commission, or any other failure of good behavior, or any acts of misfeasance, malfeasance or nonfeasance in office. No member of any department within the terms of this act shall be removed, discharged, reduced in rank or pay or suspended, or otherwise punished, except for cause, and in no event until he shall have been furnished with a written statement of the charges and the reasons for such actions. All charges shall be void unless filed within 90 days of the date of the violation. In every case of charges having been made, a copy of the statement of reasons therefor and the answer thereto, if the person sought to be removed desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. The answer shall be filed by the member within 5 days after service of the

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charges upon him. If the person sought to be removed or reduced shall demand it, the civil service commission shall grant him a public hearing, which hearing shall be held within a period of 10 days from the filing of the charges in writing and a written answer thereto. Pending the period between the making of the charges as a basis for removal and the decision thereon by the commission, the member shall remain in office, but shall be suspended from duty without pay. At the hearing the burden shall be upon the person sought to be removed to prove that the removal is not justified. If the civil service commission shall determine that the action of the removing officer was not justified, then the person sought to be removed shall be reinstated with full pay for the entire period during which he may have been prevented from performing his usual employment, and no charges shall be officially recorded against his record. A written record of all testimony taken at such hearings shall be kept and preserved by the civil service commission, which record shall be sealed and not be available for public inspection, if no appeal is taken from the action of the commission. If the civil service commission sustains the action of the removing officer the person removed shall have an immediate right of appeal on certiorari to the circuit court of the county. The appeal shall be taken within 90 days from the entry by the civil service commission of its final order. Upon such an appeal being taken and docketed with the clerk of the circuit court, the circuit court shall proceed to hear the appeal upon the original record taken therein and no additional proof shall be permitted to be introduced. The circuit court's decision shall be final, saving to the employee, however, the right to petition the supreme court for a review of the court's decision. The removing officer and the person sought to be removed at all times, both before the civil service commission and upon appeal, may employ counsel to represent either of them before the civil service commission and upon appeal.

If for any reason of economy it shall be deemed necessary by any county to reduce the number of paid members of any department, then the county shall follow the following procedure:

The removals shall be accomplished by suspending in numerical order, commencing with the last man appointed to the department, all recent appointees to the department until such reductions shall have been accomplished. If the department again is increased in number to the strength existing prior to the reduction of members, the members suspended last under the terms of this act shall be first reinstated before any new appointments to the department shall be made.

HISTORY: New 1966, p. 507, Act 298, Imd. Eff. Jul. 14.

51.363 Civil service examinations, obstructing right to examination or registration, unlawfully furnishing information or impersonating others; penalty.

Sec. 13. Any commissioner or examiner or any other person who shall wilfully, by himself or in cooperation with 1 or more persons, defeat, deceive or obstruct any person in respect to his right of examination or registration according to this act or to any rule or regulation prescribed pursuant thereto, or who shall wilfully or corruptly furnish to any person any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment of any person so examined, registered or certified or to be examined, registered or certified, or who shall impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination or registration, or application or request to be examined or registered, shall be deemed guilty of a misdemeanor.

HISTORY: New 1966, p. 508, Act 298, Imd. Eff. Jul. 14.

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51.364 Appointment or selection contrary to rules; refusal to comply to or violates act; penalty.

Sec. 14. Whoever makes an appointment to office, or selects a person for employment contrary to the provisions of the rules and regulations as adopted under the authority of this act, or wilfully refuses or neglects otherwise to comply with or conform to any of the provisions of this act, or violates any of such provisions, shall be deemed guilty of a misdemeanor. Misdemeanors under the provisions of this act shall be punishable by a fine of not less $100.00 nor more than $1,000.00, or by imprisonment in a state prison for a term not exceeding 2 years, or by both fine and imprisonment in the discretion of the court.

HISTORY: New 1966, p. 508, Act 298, Imd. Eff. Jul. 14.

51.365 Civil service commission; definitions.

Sec. 15. As used in this act:

(1) "Commission" means the civil service commission herein created.

(2) "Commissioner" means any one of the 3 commissioners of that commission.

(3) "Appointment" means all means of selection, promotion, appointing or employing any person to hold any office, place or position of employment subject to civil service.

HISTORY: New 1966, p. 508, Act 298, Imd. Eff. Jul. 14.

51.366 Act effective upon approval by electors; ballot, form; referendum.

Sec. 16. This act shall not take effect in any county until approved by a majority of the electors voting thereon at an election at which the question of adoption of this act for that county is properly submitted.

The board of supervisors, by resolution, shall submit the same to the electors at any regular election upon the filing of a petition requesting such submission with the board signed by 10% of the total vote cast in the county for the office of secretary of state at the most recent general election.

The form of ballot shall be:

Shall Act No. ..... of the Public Acts of 1966, entitled "An act to establish and provide a board of civil service commissioners for sheriffs' departments in certain counties; to provide a civil service system based upon examination and investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men appointed in the departments; to regulate the transfer, reinstatement, suspension and discharge of said officers; and to provide for referendums," be adopted?

Yes ( )

No ( )

Such ballots shall be cast and canvassed and the results of the election certified in the same manner as ballots on any questions submitted to the electors. If the majority of the qualified electors vote in favor of the adoption of this act, then the provisions thereof shall be in full force and effect in the county, and not otherwise.

HISTORY: New 1966, p. 508, Act 298, Imd. Eff. Jul. 14.

51.367 Rescission and repeal of act by electors; ballot, form; referendum.

Sec. 17. This act shall continue in full force and effect in any county in which it has been properly adopted until rescinded and repealed by a majority of the electors voting thereon at an election at which the question of rescission and repeal of this act for that county is properly submitted.

The board of supervisors, by resolution, may submit the question of rescission and repeal of this act to the electors at any regular or special election.

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The form of the ballot shall be:

Shall Act No. ..... of the Public Acts of 1966, entitled "An act to establish and provide a board of civil service commissioners for sheriffs' departments in certain counties; to provide a civil service system based upon examination and investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men appointed in the departments; to regulate the transfer, reinstatement, suspension and discharge of said officers; and to provide for referendums," be rescinded and repealed?

Yes ( )

No ( )

Such ballots shall be cast and canvassed and the results of the election certified in the same manner as ballots on any question submitted to the electors. If a majority of the qualified electors vote in favor of the rescission and repeal of this act, then the provisions thereof shall be rescinded and repealed in the county, and not otherwise.

HISTORY: New 1966, p. 508, Act 298, Imd. Eff. Jul. 14.

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CHAPTER 52. CORONERS

CORONERS
Ch. 14, R.S. 1846 (cont'd.)

52.86 Coroner; bond.
52.87 Coroner; designation as sheriff.

COUNTIES WITH POPULATION OVER 250,000
Act 345 of 1919

52.111 Coroners in counties over 250,000; qualifications.
52.112 Coroners in counties over 250,000; compensation.
52.113 Coroners in counties over 250,000; disposition of fees, itemized statement.
52.114 Coroners in counties over 250,000; deputy, appointment, powers, compensation.
52.115 Coroners in counties over 250,000; clerks and assistants, appointment, compensation, terms.
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TRANSFER OF DUTIES TO HEALTH OFFICER
Act 143 of 1945

52.141 Coroner; abolition of office in certain counties; transfer of duties to county health officer; provisions governing.
52.142 County health officer; compensation; deputies, appointment, powers, compensation.
52.143 Morgue facilities.
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52.145 No election of coroners where act effective.
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52.213 Coroner; transfer of powers and duties to county medical examiner, abolition of office; transfer of proceedings and records.
52.213a Coroner; transfer of powers and duties to county medical examiner, abolition of office; transfer of proceedings.
52.213b Coroner; transfer of records.
52.213c County health officer; designation as county medical examiner.
52.214, 52.215 Repealed.
52.216 Coroners; completion of term after effective date of act.

R.S. 1846, Ch. 14 (continued).

CORONERS.

52.86 Coroner; bond.

Sec. 86. Coroners shall give bond to the people of this state, in such penal sum, and with such sufficient sureties, as the judge of the circuit court, or the county judge, shall direct and approve, the condition of which bond shall be in substance the same as that to be given by the sheriff, varying only in the description of the office.

HISTORY: CL 1857, 434;—CL 1871, 576;—How. 604;—CL 1897, 2607;—CL 1915, 2470;—CL 1929, 1362;—CL 1948, 52.86;—Am. 1964, p. 391, Act 255, Imd. Eff. May 28.

This section as originally enacted was numbered section 87.

CITED IN OTHER SECTIONS: The above section is cited in §§ 52.141, 52.146, and 52.213a.

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52.87 Coroner; designation as sheriff.

Sec. 87. When there shall be no sheriff, or under sheriff in any county, the judge of the circuit court or the county judge shall designate 1 of the coroners to perform the duties of sheriff, which coroner, so designated, shall be vested with the same powers, and be liable in the same manner as sheriffs, until a sheriff shall be elected and qualified; and shall have the custody and control of the jail and the prisoners therein; and when the sheriff, for any cause shall be committed to the jail, the coroner living nearest the jail shall be keeper thereof during the time the sheriff shall remain a prisoner therein.

HISTORY: CL 1857, 435;—CL 1871, 577;—How. 605;—CL 1897, 2608;—CL 1915, 2471;—CL 1929, 1363;—CL 1948, 52.87.

This section as originally enacted was numbered section 88.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

CITED IN OTHER SECTIONS: The above section is cited in §§ 52.141 and 52.213a.

Sec. 88.

HISTORY: CL 1857, 436;—CL 1871, 578;—How. 606;—CL 1897, 2609;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916. (Jud. Act).

This section related to duty of coroners to execute process when sheriff is a party.

Act 345, 1919, p. 618; Eff. Aug. 14.

AN ACT to define the qualifications of coroners in counties having a population of 250,000 inhabitants and upwards; to provide for deputy coroners and assistants; to prescribe their powers and duties; to fix their compensation, or to provide for the fixing thereof; to provide a penalty for non-fulfillment of duty in such counties and to repeal all general, special and local acts contravening the provisions of this act.

The People of the State of Michigan enact:

52.111 Coroners in counties over 250,000; qualifications.

Sec. 1. No person shall hereafter be eligible to serve as coroner or deputy coroner in and for counties having a population of 250,000 inhabitants and upwards who shall not be at the time of his election or appointment a physician or surgeon registered under the laws of the state of Michigan, and a graduate of a regularly incorporated medical college, and who shall not have practiced the profession of physician or surgeon for at least 5 years.

HISTORY: CL 1929, 1364;—Am. 1941, p. 207, Act 158, Eff. Jan. 10, 1942;—CL 1948, 52.111.

52.112 Coroners in counties over 250,000; compensation.

Sec. 2. Each of the coroners hereafter elected in any county coming within the provisions of this act, shall hereafter receive in full payment of his services as such, such sum as the board of supervisors of such counties shall determine, which sum shall not be less than $7,500.00 per year, the same to be paid as the salaries of the other officers within and for said counties: Provided, however, That in counties having a population of 250,000 inhabitants and upwards, but not exceeding 500,000, each coroner so elected shall receive in full payment of his services as such, such sum as the board of supervisors of such county shall determine, which sum shall not be less than $2,000.00 per year.

HISTORY: Am. 1927, p. 927, Act 388, Eff. Sept. 5;—CL 1929, 1365;—Am. 1941, p. 207, Act 158, Eff. Jan. 10, 1942;—CL 1948, 52.112.

52.113 Coroners in counties over 250,000; disposition of fees, itemized statement.

Sec. 3. All fees hereafter taxed and collected by said coroners or their deputies or clerks for them, shall be paid to the county treasurer on the last day of every month, and the same shall be for the use of such county and placed to the credit of the general fund. Such payment shall in all cases be accompanied by an itemized statement in writing of the coroner or his deputy of the services rendered and the fees collected

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and that the same is true in every particular, which statement shall be verified by the oath of the officer making the same that such statement is true.

HISTORY: CL 1929, 1366;—CL 1948, 52.113.

52.114 Coroners in counties over 250,000; deputy, appointment, powers, compensation.

Sec. 4. Each of the said coroners shall, as soon as possible after the effective date of this amendatory act, appoint 1 deputy coroner who shall hold office during the pleasure of said appointing coroner and who shall act under the direction of the coroner appointing him and whose term of office in all cases shall expire at the expiration of the term of office of the appointing coroner. Any deputy coroner shall have power to perform any and all duties of the coroner. The salary of each deputy coroner shall be fixed by the board of supervisors of such county in a sum not less than $2,500.00 per annum, and said salaries shall be paid in the same manner as the salaries of other county employees: Provided, however, That in counties having a population of 250,000 inhabitants and upwards, but not exceeding 500,000, the salary of each deputy coroner shall be fixed by the board of supervisors of such county in a sum not less than $1,200.00 per annum.

HISTORY: CL 1929, 1367;—Am. 1941, p. 208, Act 158, Eff. Jan. 10, 1942;—CL 1948, 52.114;—Am. 1953, p. 150, Act 145, Eff. Oct. 2.

52.115 Coroners in counties over 250,000; clerks and assistants, appointment, compensation, terms.

Sec. 5. The said coroners shall have the power to appoint 2 night clerks, 1 stenographer, 1 property clerk, 2 morgue attendants and 2 investigators, whose salaries shall be fixed by the board of supervisors of such county and said salaries shall be paid in the same manner as the salaries of other county employes. The terms of office of the foregoing employes shall in all cases expire at the expiration of the terms of office of the coroners so appointing.

HISTORY: CL 1929, 1368;—CL 1948, 52.115.

52.116 Coroner; office hours.

Sec. 6. The coroner's office shall be open at all times for the transaction of official business.

HISTORY: CL 1929, 1369;—CL 1948, 52.116.

52.117 Construction of act.

Sec. 7. The provisions of this act shall apply only to counties within the state having a population of 250,000 and upwards. It is the intent of this act by general law to provide for coroners and a coroner's staff sufficient in number and ability to transact a volume of business coming within the jurisdiction of the coroner in counties having a large population.

HISTORY: CL 1929, 1370;—CL 1948, 52.117.

52.118 Violation of act; penalty.

Sec. 8. If either of said coroners shall fail to comply with the provisions of this act, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed 500 dollars or imprisonment in the county jail not to exceed 6 months.

HISTORY: CL 1929, 1371;—CL 1948, 52.118.

Sec. 9. (This was a repeal section.)

HISTORY: CL 1929, 1372;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 143, 1945, p. 205; Eff. Sep. 6.

AN ACT to provide that county health officers in certain counties assume and perform the duties of coroners; to provide for such assistants and deputies as the board of

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supervisors deem necessary; to authorize the fixing of salaries for such health officers, assistants and deputies, the furnishing of office and morgue facilities and the maintenance thereof. Am. 1960, p. 95, Act 95, Eff. Aug. 17.

The People of the State of Michigan enact:

52.141 Coroner; abolition of office in certain counties; transfer of duties to county health officer; provisions governing.

Sec. 1. Boards of supervisors in counties in this state now or hereafter having not less than 30,000 nor more than 1,500,000 population, and having a health officer appointed under the provisions of Act No. 306 of the Public Acts of 1927, as amended, being sections 327.201 to 327.208a of the Compiled Laws of 1948, may abolish the office of coroner provided for in sections 52.86 and 52.87 of the Compiled Laws of 1948 and transfer the duties of the coroner to the health officer appointed under Act No. 306 of the Public Acts of 1927, as amended.

HISTORY: CL 1948, 52.141;—Am. 1960, p. 95, Act 95, Eff. Aug. 17;—Am. 1963, p. 93, Act 80, Eff. Sep. 6.

52.142 County health officer; compensation; deputies, appointment, powers, compensation.

Sec. 2. The boards of supervisors shall set the salary of such health officer, provide for the appointment of such deputies as said boards deem necessary, which deputies shall possess the powers of the coroner in his absence and be compensated by such salary or fees as the board of supervisors deem adequate.

HISTORY: CL 1948, 52.142.

52.143 Morgue facilities.

Sec. 3. The boards of supervisors shall provide morgue facilities available to the health officer and such clerical help as the board deems advisable and necessary to the efficient conduct of the office.

HISTORY: CL 1948, 52.143.

52.144 County health officer and deputies; payment of compensation.

Sec. 4. The salaries provided for in this act shall be fixed and paid as and when other county salaries are fixed and paid and if any compensation is provided on a fee basis such fees shall be audited as other claims against the county are audited and paid.

HISTORY: CL 1948, 52.144.

52.145 No election of coroners where act effective.

Sec. 5. In all counties where the provisions of this act are in effect no coroners shall be elected after the expiration of the terms of the incumbent and this act shall not be construed to relieve incumbents of their duties or deprive them of the emoluments of their office during the remainder of the terms for which they were elected.

HISTORY: CL 1948, 52.145.

52.146 County health officer; powers.

Sec. 6. Any health officer functioning under the provisions of this act shall have and be vested with all of the powers previously invested in and enjoyed by coroners elected under the provisions of section 52.86 of the Compiled Laws of 1948.

HISTORY: CL 1948, 52.146;—Am. 1960, p. 95, Act 95, Eff. Aug. 17.

Sec. 7. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Act 181, 1953, p. 234; Eff. Jan. 1, 1954.

AN ACT relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to

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protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon. Am. 1969, p. 179, Act 92, Imd. Eff. Jul. 24.

The People of the State of Michigan enact:

52.201 Coroner, abolition of office; county medical examiner; appointment, terms, vacancies, civil service, qualifications; adjoining counties.

Sec. 1. The board of supervisors of each county of this state shall by resolution abolish the office of coroner, and appoint a county medical examiner to hold office for a period of 4 years. Should the office of county medical examiner become vacant before the expiration of the term of office, the board of supervisors may appoint a successor to complete the term of office. In counties having a civil service system, the appointment and tenure of the medical examiner shall be made in accordance with the provisions thereof. County medical examiners shall be physicians licensed to practice within the state and shall be residents of the county for which they are appointed or of a neighboring county. Two or more adjoining counties, by resolution of the respective boards of supervisors thereof, may enter into common agreement to employ the same person to act as medical examiner for all of the counties.

HISTORY: New 1953, p. 234, Act 181, Eff. Jan. 1, 1954;—Am. 1959, p. 51, Act 49, Eff. Mar. 19, 1960;—Am. 1969, p. 179, Act 92, Imd. Eff. Jul. 24.

52.201a Deputy county medical examiners; appointment, qualifications.

Sec. 1a. (1) The board of supervisors may appoint as a deputy county medical examiner any person meeting the qualifications as required by this section and approved by the county medical examiner.

(2) In counties now or hereafter having a population of 50,000 or more, deputy county medical examiners shall be physicians licensed to practice within this state.

(3) In counties now or hereafter having 50,000 population or less, deputy county medical examiners shall only be physicians, dentists, registered nurses or morticians licensed to practice in this state.

HISTORY: Add. 1969, p. 180, Act 92, Imd. Eff. Jul. 24.

52.201b Deputy county medical examiners; residency.

Sec. 1b. Deputy county medical examiners shall be residents of the county from which they are appointed.

HISTORY: Add. 1969, p. 180, Act 92, Imd. Eff. Jul. 24.

52.201c County medical examiner; powers and duties.

Sec. 1c. The county medical examiner shall be in charge of the office of the county medical examiner and may promulgate rules relative to the conduct of his office. The county medical examiner may delegate any functions of his office to a duly appointed deputy county medical examiner if the deputy county medical examiner is a licensed physician. If the deputy county medical examiner is not a licensed physician, his functions shall be limited as provided by law.

HISTORY: Add. 1969, p. 180, Act 92, Imd. Eff. Jul. 24.

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52.201d Deputy county medical examiners; appointment in counties under civil service.

Sec. 1d. In counties having a civil service system the county medical examiner shall appoint the deputy medical examiners.

HISTORY: Add. 1969, p. 180, Act 92, Imd. Eff. Jul. 24.

52.201e County medical examiner and deputies; compensation and expenses.

Sec. 1e. The compensation of the county medical examiners and deputy county medical examiners shall be such as is appropriated by the county board of supervisors. The county medical examiner and deputy county medical examiners shall receive, in addition to compensation, their actual and necessary traveling and other expenses, within the appropriation made therefor by the county board of supervisors.

HISTORY: Add. 1969, p. 180, Act 92, Imd. Eff. Jul. 24.

52.201f County medical examiner and deputies; removal.

Sec. 1f. The county board of supervisors shall remove from office any county medical examiner or upon request of the county medical examiner any deputy county medical examiner, after hearing, who fails to discharge properly the duties of his office. In counties having a civil service system, the removal of the county medical examiner shall be made in accordance with the provisions of the civil service system.

HISTORY: Add. 1969, p. 180, Act 92, Imd. Eff. Jul. 24.

52.202 Violent, unexpected or medically unattended deaths; investigation by county medical examiner as to cause; prisoners.

Sec. 2. County medical examiners or deputy county medical examiners shall make investigations as to the cause and manner of death in all cases of persons who have come to their death by violence; or whose death was unexpected; or without medical attendance during the 48 hours prior to the hour of death unless the attending physician, if any, is able to determine accurately the cause of death; or as the result of an abortion, whether self-induced or otherwise. If any prisoner in any county or city jail dies while so imprisoned, the county medical examiner, upon being notified of the death of the prisoner, shall make an examination upon the body of the deceased prisoner.

HISTORY: New 1953, p. 234, Act 181, Eff. Jan. 1, 1954;—Am. 1969, p. 180, Act 92, Imd. Eff. Jul. 24.

52.203 Violent, unexpected or medically unattended deaths; notice to county medical examiner.

Sec. 3. Any physician and any person in charge of any hospital or institution, or any person who shall have first knowledge of the death of any person who shall have died suddenly, unexpectedly, accidentally, violently, or as the result of any suspicious circumstances, or without medical attendance during the 48 hours prior to the hour of death unless the attending physician, if any, is able to determine accurately the cause of death, or in any case of death due to what is commonly known as an abortion, whether self-induced or otherwise, shall notify the county medical examiner or his deputy immediately of the death.

HISTORY: New 1953, p. 234, Act 181, Eff. Jan. 1, 1954;—Am. 1969, p. 180, Act 92, Imd. Eff. Jul. 24.

52.204 Violent, unexpected or medically unattended deaths; removal of body, notice; violation of section, penalty.

Sec. 4. It shall be unlawful for any funeral director, embalmer or other person to remove the body from the place where death occurred, or to prepare the body for burial or shipment, when such funeral director, embalmer or other person knows or upon reasonable investigation should know that death may have occurred in a manner as indicated in section 3, without first notifying the county medical examiner or his deputy

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and receiving permission to remove, prepare for burial or ship such body. Any person who violates the provisions of this section is guilty of a misdemeanor and may be imprisoned not exceeding 1 year, or fined not exceeding $500.00, or both.

HISTORY: New 1953, p. 234, Act 181, Eff. Jan. 1, 1954;—Am. 1969, p. 181, Act 92 Imd. Eff. Jul. 24.

52.205 Violent, unexpected or medically unattended deaths; removal of body to morgue, autopsy, release, burial.

Sec. 5. When a county medical examiner has notice that there has been found or is lying within his county or district the body of a person who is supposed to have come to his death in a manner as indicated in section 3, he shall forthwith repair to the place where such body lies and take charge of same; and if, on view thereof and personal inquiry into the cause and manner of the death, he deems a further examination necessary, the county medical examiner or his deputy may cause such dead body to be removed to the public morgue. If there be no public morgue, then the body may be removed to such private morgue as the county medical examiner has designated. The county medical examiner may perform or direct to be performed an autopsy and shall then and there carefully reduce or cause to be reduced to writing every fact and circumstance tending to show the condition of the body and the cause and manner of death, together with the names and addresses of any persons present at the autopsy, which record he shall subscribe. The county medical examiner may conduct an autopsy whenever he determines that an autopsy reasonably appears to be required pursuant to the provisions of law. After the county medical examiner or his deputy has made diligent effort to locate and notify the next of kin, he may order and conduct the autopsy with or without the consent of the next of kin of the deceased. The county medical examiner or his deputy shall keep a written record of such efforts to locate and notify the next of kin for a period of 1 year from the date of the autopsy. Such county medical examiner shall, after any required examination or autopsy, promptly deliver or return such body to the relatives or representatives of the deceased or, if there are no relatives or representatives known to the examiner, he may cause the body to be decently buried, except that such examiner may retain, as long as may be necessary, any portion of such body believed by him to be necessary for the detection of any crime.

HISTORY: New 1953, p. 235, Act 181, Eff. Jan. 1, 1954;—Am. 1969, p. 181, Act 92, Imd. Eff. Jul. 24.

52.206 Private morgue; compensation.

Sec. 6. If the body of a deceased person has been removed to a private morgue for examination upon the order of the medical examiner, the keeper of such morgue shall be allowed compensation for his services as the county medical examiner deems reasonable. Compensation is to be paid out of the county treasury on the order of the examiner. Any expense incurred under the provisions of this act shall be within the appropriations made therefor by the county board of supervisors.

HISTORY: New 1953, p. 235, Act 181, Eff. Jan. 1, 1954;—Am. 1969, p. 181, Act 92, Imd. Eff. Jul. 24.

52.207 Violent, unexpected or medically unattended deaths; investigation by county medical examiner; inquest.

Sec. 7. Upon the written order of the prosecuting attorney or the attorney general or upon the filing of a petition signed by 6 electors of a county, the county medical examiner or deputy shall conduct an investigation, as provided in section 5, of the circumstances surrounding any death believed to have occurred in the county. Upon determination of the prosecuting attorney or upon the determination of the examiner an inquest shall be held by a district court judge or a municipal court judge.

HISTORY: New 1953, p. 235, Act 181, Eff. Jan. 1, 1954;—Am. 1959, p. 324, Act 222, Eff. Mar. 19, 1960;—Am. 1968, p. 473, Act 274, Eff. Nov. 15;—Am. 1969, p. 181, Act 92, Imd. Eff. Jul. 24.

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52.208 Violent, unexpected or medically unattended deaths; personalty found on deceased's person, possession, inventory, disposition, use as evidence.

Sec. 8. In all cases arising under the provisions of this act, in the absence of next of kin of the deceased person, the senior police officer being concerned with the matter, and in the absence of police, the county medical examiner or his deputy, shall take possession of all property of value found upon the person of the deceased, make an exact inventory report thereof and shall deliver the property, unless required as evidence, to the person entitled to the custody or possession of the body. If the personal property of value is not claimed by the person entitled to the custody or possession of the body of the decedent within 60 days, the property shall be turned over to an administrator or other personal representatives of the decedent's estate to be disposed of according to law; or, if required as evidence, the property within 60 days after the termination of any proceeding or appeal period therefrom permitted by law shall be turned over to the person entitled to the custody or possession of the body, or to an administrator or other personal representative of the decedent's estate. Nothing in this section shall affect the powers and duties of a public administrator.

HISTORY: New 1953, p. 235, Act 181, Eff. Jan. 1, 1954;—Am. 1969, p. 182, Act 92, Imd. Eff. Jul. 24.

52.209 Repealed. 1969, p. 183, Act 92, Imd. Eff. Jul. 24.

Section provided penalty for medical examiner's failure to deliver personal property of a deceased person.

52.210 Removal of body to crematory; permit from county medical examiner; violation of section, penalty.

Sec. 10. No funeral director, embalmer or any other person shall remove the body of any deceased person to a crematory or remove for the purpose of cremation such dead body from the county in which death occurred without the signed permit of the medical examiner for such county or his deputy. Any person who violates the provisions of this section is guilty of a misdemeanor and shall be imprisoned not more than 1 year, or fined not more than $500.00, or both.

HISTORY: New 1953, p. 235, Act 181, Eff. Jan. 1, 1954;—Am. 1969, p. 182, Act 92, Imd. Eff. Jul. 24.

52.211 County medical examiner; records.

Sec. 11. Medical examiners shall keep a record of all views of bodies found dead, together with their view and autopsy reports.

HISTORY: New 1953, p. 236, Act 181, Eff. Jan. 1, 1954.

52.212 County medical examiner and deputies; testimony, expenses.

Sec. 12. Any and all medical examiners or their deputies may be required to testify in behalf of the state in any matter arising as the result of any investigation required under this act, and shall testify in behalf of the state and shall receive such actual and necessary expenses as the court shall allow.

HISTORY: New 1953, p. 236, Act 181, Eff. Jan. 1, 1954;—Am. 1969, p. 182, Act 92, Imd. Eff. Jul. 24.

52.213 Coroner; transfer of powers and duties to county medical examiner, abolition of office; transfer of proceedings and records.

Sec. 13. In counties having a medical examiner under the provisions of this act, the powers and duties vested by law in the office of coroner are hereby transferred to and vested in the county medical examiners and their deputies. In such counties immediately upon the taking effect of this act, the office of coroner shall be abolished, and whenever reference thereto is made in any law of this state, reference shall be deemed to be intended to be made to the medical examiners created by this act, insofar as consistent with the provisions of this act. Any hearing or other proceeding pending before any coroner shall not be abated but shall be deemed to be transferred to the medical

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examiner of the proper county and shall be conducted and determined by such examiner in accordance with the provisions of law.

All records, files and other papers belonging to any coroner in any such county shall be turned over to the county medical examiner of the proper county and shall be continued as a part of the records and files of said county medical examiner.

HISTORY: New 1953, p. 236, Act 181, Eff. Jan. 1, 1954.

52.213a Coroner; transfer of powers and duties to county medical examiner, abolition of office; transfer of proceedings.

Sec. 13a. The powers and duties vested by law in the office of coroner are transferred to and vested in the county medical examiners and their deputies as provided herein. The office of coroner, as provided for in sections 86 and 87 of chapter 14 of the revised statutes of 1846, as amended, being sections 52.86 and 52.87 of the Compiled Laws of 1948, shall be abolished, and whenever reference thereto is made in any law of this state, reference shall be deemed to be intended to be made to the medical examiners created by this act, insofar as consistent with the provisions of this act. Any hearing or other proceeding pending before any coroner shall not be abated but shall be deemed to be transferred to the medical examiner of the proper county and shall be conducted and determined by such examiner in accordance with the provisions of law.

HISTORY: Add. 1959, p. 330, Act 225, Eff. Mar. 19, 1960;—Am. 1969, p. 182, Act 92, Imd. Eff. Jul. 24.

52.213b Coroner; transfer of records.

Sec. 13b. All records, files and other papers belonging to any coroner in any such county shall be turned over to the county medical examiner of the proper county and shall be continued as a part of the records and files of the county medical examiner.

HISTORY: Add. 1969, p. 182, Act 92, Imd. Eff. Jul. 24.

52.213c County health officer; designation as county medical examiner.

Sec. 13c. Any county having a county health officer appointed under the provisions of Act No. 306 of the Public Acts of 1927, as amended, being sections 327.201 to 327.208a of the Compiled Laws of 1948, may designate the county health officer as medical examiner.

HISTORY: Add. 1969, p. 182, Act 92, Imd. Eff. Jul. 24.

52.214, 52.215 Repealed. 1969, p. 183, Act 92, Imd. Eff. Jul. 24.

Sections fixed effective date and referendum for abolition of office of coroner and creation of office of medical examiner.

52.216 Coroners; completion of term after effective date of act.

Sec. 16. In all counties having a coroner upon the effective date of this amendatory act, the coroner may complete the term for which he was elected.

HISTORY: Add. 1969, p. 182, Act 92, Imd. Eff. Jul. 24.

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CHAPTER 53. REGISTER OF DEEDS

REGISTER OF DEEDS

Ch. 14, R.S. 1846 (cont'd.)

53.89 Register of deeds; bond.
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53.91 Register of deeds; deputy, appointment, filing; oath of office.
53.92 Deputy; acting as register of deeds.
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SEAL OF OFFICE

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53.111 Register of deeds; seal of office required.

SYSTEM OF ABSTRACTS OF TITLE

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53.141 System of abstracts of title to lands in county; authorization, fees.
53.142 System of abstracts of title; board of supervisors' resolution to purchase equipment, scope.
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53.144 Abstractor; appointment, compensation.
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53.147 System of abstracts of title; public inspection.
53.148 Intent of act.
53.151 Scope of act; referendum on adoption; tract index, establishment.

R.S. 1846, Ch. 14 (continued).

REGISTER OF DEEDS.

53.89 Register of deeds; bond.

Sec. 89. The register of deeds shall give bond to the people of this state in the penal sum of $3,000.00, with 2 sureties to be approved by the county treasurer, the condition of which shall be, that he shall faithfully and impartially discharge the duties of his office.

HISTORY: CL 1857, 437;—CL 1871, 579;—How. 607;—CL 1897, 2610;—CL 1915, 2472;—CL 1929, 1373;—CL 1948, 5389;—Am. 1964, p. 391, Act 255, Imd. Eff. May 28.

This section as originally enacted was numbered section 90.

53.90 Register of deeds; office, location; fees and compensation.

Sec. 90. The register shall keep his office at the seat of justice for the county, and shall receive such fees and compensation for his services as may be provided by law.

HISTORY: CL 1857, 438;—CL 1871, 580;—How. 608;—CL 1897, 2611;—CL 1915, 2473;—CL 1929, 1374;—CL 1948, 53.90.

This section as originally enacted was numbered section 91.

SALARY: See Sec. 1 of Act 237 of 1919, being Compilers' § 45.401.

53.91 Register of deeds; deputy, appointment, filing; oath of office.

Sec. 91. The register of deeds shall appoint a deputy, to hold his office during the pleasure of the register; such appointment and the revocation thereof to be in writing, and filed in the office of the county clerk; and before such deputy shall enter upon the duties of his office, he shall take the oath prescribed by the twelfth article of the constitution, and for the faithful performance of his duties by such deputy the register and his sureties shall be responsible.

HISTORY: CL 1857, 439;—CL 1871, 581;—How. 609;—CL 1897, 2612;—CL 1915, 2474;—CL 1929, 1375;—CL 1948, 53.91.

This section as originally enacted was numbered section 92.

SALARY: See Sec. 1 of Act 237 of 1919, being Compilers' § 45.401.

DEPUTY: Appointment, see Compilers' § 45.41.

53.92 Deputy; acting as register of deeds.

Sec. 92. In case of a vacancy in the office of the register of deeds, or his absence or inability to perform the duties of his office, such deputy shall perform the duties of register during the continuance of such vacancy or disability.

HISTORY: CL 1857, 440;—CL 1871, 582;—How. 610;—CL 1897, 2613;—CL 1915, 2475;—CL 1929, 1376;—CL 1948, 53.92.

This section as originally enacted was numbered section 93.

VACANCY: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

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53.93 Register of deeds; vacancies, filling by appointment of probate judge.

Sec. 93. If, during a vacancy in the office of the register of deeds, or his absence or inability to perform the duties of his office, there shall be no deputy register, or if such deputy be unable from any cause to perform the said duties, the judge of probate of the county may by writing under his hand, appoint some suitable person to perform the duties of register of deeds for the time being, who shall take an oath of office, and give such bond as the said judge shall direct and approve.

HISTORY: CL 1857, 441;—CL 1871, 583;—Am. 1877, p. 60, Act 76, Eff. Aug. 21;—How. 611;—CL 1897, 2614;—CL 1915, 2476;—CL 1929, 1377;—CL 1948, 53.93.

This section as originally enacted was numbered section 94.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

53.94 Register of deeds; records, form, binding.

Sec. 94. The board of supervisors of each county shall, from time to time, provide suitable books, at the expense of the county, for the entering and recording of all deeds and matters required by law to be entered and recorded by the register of deeds. Such books may be of detachable leaves in a binder which admits of its being kept locked so that it shall be impossible for any leaves to be removed therefrom or inserted therein except by or under the direction of the register of deeds, and all the pages thereof, shall be consecutively numbered before any record is made thereon. Such record may be made wholly or partly with a typewriter if ink of a permanent character is used therewith. When the number of leaves in any binder shall constitute a book of a proper and convenient size they shall be permanently bound in some manner, but may be retained in the original binder or placed in a transfer binder if the mechanism thereof permits of so securing such leaves therein that they cannot be removed therefrom with or without a key.

HISTORY: CL 1857, 442;—CL 1871, 584;—How. 612;—CL 1897, 2615;—Am. 1915, p. 142, Act 77, Eff. Aug. 24;—CL 1915, 2477;—CL 1929, 1378;—CL 1948, 53.94.

This section as originally enacted was numbered section 95.

Act 149, 1877, p. 144; Eff. Aug. 21.

AN ACT to require registers of deeds to procure a seal of office. Am. 1895, p. 286, Act 147, Eff. Aug. 30.

The People of the State of Michigan enact:

53.111 Register of deeds; seal of office required.

Sec. 1. The registers of deeds in the several counties of this state are hereby required and directed to procure at the expense of the county an official seal and that a legible impression of the same shall be placed upon the face of the certificate of record of every instrument after the same has been spread upon the records.

HISTORY: How. 613;—Am. 1895, p. 286, Act 147, Eff. Aug. 30;—CL 1897, 2616;—CL 1915, 2478;—CL 1929, 1379;—CL 1948, 53.111.

Act 378, 1921, p. 694; Eff. Aug. 18.

AN ACT to provide for the several counties of the state of Michigan purchasing or making, establishing and maintaining systems of abstracts of title of lands in such counties; the making and selling of abstracts of title and furnishing of information concerning the condition of titles and charging of fees therefor; the employing of persons to keep and maintain such systems of abstracts, and the doing of all things necessary for the carrying on of a general business of making and furnishing abstracts of title to the lands in such counties.

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The People of the State of Michigan enact:

53.141 System of abstracts of title to lands in county; authorization, fees.

Sec. 1. The several counties of the state of Michigan are authorized and empowered to purchase or make, establish and maintain a system of abstracts of title to all lands in said county; to make and sell abstracts of title and furnish information concerning the conditions of title to such lands and to charge such fees therefor as shall be from time to time determined by the proper authorities of said counties as hereinafter provided. The action of any county in this state heretofore taken or had in compliance with the provisions of this act is declared to be regular and legal.

HISTORY: CL 1929, 1380;—CL 1948, 53.141.

53.142 System of abstracts of title; board of supervisors' resolution to purchase equipment, scope.

Sec. 2. Whenever the board of supervisors of any county of this state shall hereafter desire to act under or by virtue of the authority aforesaid, the board of supervisors of such county shall by ordinance or by resolution duly adopted make provision for the purchasing or making, establishing and maintaining of such system or systems of records, indexes, books, files, and methods for the preservation and use of the same as shall meet the requirements of that particular county. The ordinance or resolution may provide for tract index, card index, cross-reference index or system or any other index or reference system or systems as shall in the judgment of said board of supervisors best meet the needs of the county or community to be served.

HISTORY: CL 1929, 1381;—CL 1948, 53.142.

53.143 System of abstracts of title; appropriation, powers of board of supervisors.

Sec. 3. Any board of supervisors so acting may appropriate money within the limits allowed by law, enter into or authorize contracts, appoint and employ or authorize the appointment or employment of agents and servants to have charge of, perform labor on and have the care and custody of the books, records, systems and other property of the county and do all things necessary to carry out the provisions of this act.

HISTORY: CL 1929, 1382;—CL 1948, 53.143.

53.144 Abstractor; appointment, compensation.

Sec. 4. The ordinance or resolution may provide that the register of deeds shall be the abstractor, or may provide for the appointment or employment of a superintendent or abstractor who shall perform his duties under the supervision of such officer or officers of the county as shall be designated in such ordinance or resolution. The compensation for exercising the functions and performing the duties aforesaid shall be fixed in advance of the election, appointment or employment.

HISTORY: CL 1929, 1383;—CL 1948, 53.144.

53.145 Abstractor; powers and duties.

Sec. 5. It shall be the duty of the superintendent or abstractor

(a) To keep and maintain said system of indexes and abstracts up to date at all times, in every particular, promptly entering upon the records of said system every deed, mortgage, release, discharge, attachment, lien, sale, lis pendens, agreement or other transaction appearing on the records of said county in any manner affecting the title to any of the lands in said county;

(b) To promptly make and deliver from time to time abstracts of title to any lands in said county which may at any time be ordered and to collect the fees therefor which may from time to time be fixed and established by the board of supervisors;

(c) To promptly furnish information concerning the condition of title to any such

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lands to any person inquiring therefor and collect such fees as may from time to time be fixed and established by the board of supervisors;

(d) To turn over all moneys received to the county treasurer at the end of each month with an itemized statement of all receipts which statement shall remain on file in the office of the county treasurer, and to make such reports of the business of his office as may be required by the ordinance or by resolution of the board of supervisors.

HISTORY: CL 1929, 1384;—CL 1948, 53.145.

53.146 Abstracts of title; resolution by board of supervisors to support verity; certification of abstractor.

Sec. 6. In support of the verity and accuracy of the abstracts so made and sold the board of supervisors may by said ordinance or by resolution provide

(a) That the faith and credit of the county shall be pledged to the same, or

(b) That the abstractor before entering upon his duties shall furnish a surety bond, policy of assurance or certificate or guarantee, of a responsible company or association assuring or guaranteeing the verity and accuracy of all abstracts to be issued by such abstractor during his term of office, or

(c) That a fund in such amount as the board may determine shall be created and accumulated in the county treasury by setting aside and depositing therein a percentage to be fixed in such ordinance or by resolution out of the proceeds received from each abstract made and sold and that such fund shall stand as a pledge or security therefor, or

(d) That the net proceeds to accrue in the future from the making and selling of abstracts shall stand as such pledge or security, or

(e) For the procuring of a policy or other contract of assurance thereof and paying for the same out of such net proceeds.

Each of the foregoing 5 provisions shall be deemed to be independent and complete in itself but said ordinance or resolution may nevertheless adopt any 2 or more of the same. Every such abstract shall have attached thereto a certificate that all conveyances and other matters of record in the public offices of said county affecting the title to the property covered thereby are correctly set forth therein or a certificate of such lesser extent as may be provided in such ordinance or resolution. The certificate shall be signed

..... , County abstractor of ..... county

Name of abstractor. Name of county.

HISTORY: CL 1929, 1385;—CL 1948, 53.146.

53.147 System of abstracts of title; public inspection.

Sec. 7. All books, records, indexes and memoranda of the systems hereby authorized shall at all reasonable hours be open for inspection by any person lawfully entitled to have access thereto under such reasonable rules and regulations and subject to such fees and charges as may be from time to time established by the abstractor, subject to such limitations and restrictions, if any, as may be from time to time made by the board of supervisors.

HISTORY: CL 1929, 1386;—CL 1948, 53.147.

53.148 Intent of act.

Sec. 8. This act is intended to be declaratory of the existing rights and powers of counties acting by and through their boards of supervisors and to provide a definite and uniform method for the exercise thereof, but if necessary to its validity or operative effect this act shall be deemed to be a grant of rights and powers.

HISTORY: CL 1929, 1387;—CL 1948, 53.148.

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Sec. 9. (This was a severing clause section.)
HISTORY: CL 1929, 1388;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Sec. 10. (This was a repeal section.)
HISTORY: CL 1929, 1389;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

53.151 Scope of act; referendum on adoption; tract index, establishment.

Sec. 11. The provisions of this act shall apply only to counties having a population of 900,000 and upwards and those counties that now have county abstract books and are operating abstract offices: Provided, That upon the petition of not less than 8 per centum of the electors of any county not coming within the provisions of this act according to the vote cast for secretary of state in said county at the last general election presented to the board of supervisors of such county at any regular or special meeting of said board, it shall be the duty of said board to submit to the electors of said county the proposal for said county to own and operate an abstract office and the books, indexes, etc., necessary for the conducting of such abstract office, at the next general election or at a special election called for that purpose: And provided further, That any county in which such proposition shall have been so submitted it shall require a majority vote of the ballots cast on such proposition favoring such proposition before the same shall be adopted: Provided further, That the board of supervisors of any county having a population less than 900,000 may establish and provide for a tract index in said county by a majority vote of the board of supervisors, and no petition signed by electors shall be required to be filed with the board of supervisors to authorize the establishment and maintenance of such tract indexes. All acts or parts of acts whether local or general in conflict with the provisions of this act are hereby repealed.
HISTORY: CL 1929, 1390;—Am. 1941, p. 30, Act 32, Eff. Jan. 10, 1942;—CL 1948, 53.151.

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CHAPTER 54. SURVEYORS

COUNTY SURVEYORS

Ch. 14, R.S. 1846 (cont'd.)

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R.S. 1846, Ch. 14 (continued).

COUNTY SURVEYORS.

54.95 County surveyor; abolition of office, re-establishment; bond; eligibility.

Sec. 95. The board of supervisors in any county may by resolution abolish the office of county surveyor. Action to abolish the office shall be taken prior to May 15 of the year in which county officers are elected. The term of office of no surveyor shall be shortened by such action of the board of supervisors. The office may be re-established in the same manner and subject to the same time limitations as is herein provided for the abolition of the office. When re-established, the effective date of such re-establishment shall be January 1 of the year in which county officers assume office. The county surveyors shall give bond to the people of this state, in the penal sum of $2,000.00, with 2 sureties to be approved by the county treasurer, conditioned for faithful and impartial discharge of the duties of his office. No one shall be eligible to be elected to the office of county surveyor, unless he be

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(a) A graduate from an engineering course in an accredited university or college;

(b) Or a person who has completed all the prescribed courses in surveying of an engineering course in some reputable college or university, which shall meet the requirements of subdivision (a) and has had at least 2 years experience in the active practice of surveying or engineering;

(c) Or a person who has had at least 5 years experience in active practice of civil engineering or surveying within the state.

HISTORY: CL 1857, 443;—CL 1871, 585;—How. 614;—CL 1897, 2617;—Am. 1915, p. 386, Act 229, Eff. Aug. 24;—CL 1915, 2479;—CL 1929, 1391;—CL 1948, 54.95;—Am. 1964, p. 391, Act 255, Imd. Eff. May 28.

This section as originally enacted was numbered section 96.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

ORIGINAL SECTION CORNERS AND POSTS: Act authorizing ascertainment and preservation by supervisors, see Act 149 of 1883, being Compilers' §§ 54.221 and 54.222. Also see note under Compilers' § 54.221.

54.96 County surveyor; deputies, appointment, revocation; oath of office.

Sec. 96. Each county surveyor may appoint 1 or more deputies, and may revoke such appointment at pleasure; which appointment and revocation shall be in writing, under his hand, and filed with the county clerk, and such deputies shall take the constitutional oath of office; and for the faithful performance of the duties of their office by such deputies, the said surveyor and his sureties shall be responsible.

HISTORY: CL 1857, 444;—CL 1871, 586;—How. 615;—CL 1897, 2618;—CL 1915, 2480;—CL 1929, 1392;—CL 1948, 54.96.

This section as originally enacted was numbered section 97.

54.97 County surveyor; certificates as evidence.

Sec. 97. The certificate of the surveyor or his deputy, of any survey made by him of any lands in the county, shall be presumptive evidence of the facts therein contained, unless such surveyor or deputy shall be interested therein.

HISTORY: CL 1857, 445;—CL 1871, 587;—How. 616;—CL 1897, 2619;—CL 1915, 2481;—CL 1929, 1393;—CL 1948, 54.97.

This section as originally enacted was numbered section 98.

54.98 County surveyor; requested surveys.

Sec. 98. The county surveyor, in person or by deputy, shall make and execute such surveys within his county, as may be required of him by order of any court, or by application of any person therefor.

HISTORY: CL 1857, 446;—CL 1871, 588;—How. 617;—CL 1897, 2620;—CL 1915, 2482;—CL 1929, 1394;—CL 1948, 54.98.

This section as originally enacted was numbered section 99.

54.99 Interest disqualification; surveys by surveyor of adjoining county.

Sec. 99. Whenever a survey may be required of any land, in which the county surveyor or either of his deputies shall be interested, or when from any cause there shall be no surveyor or deputy surveyor of the county to be found or able to act, such survey may be made by the surveyor of an adjoining county or either of his deputies in like manner, and to the same effect as if such survey had been made by the surveyor of the county where the land is situated.

HISTORY: CL 1857, 447;—CL 1871, 589;—How. 618;—CL 1897, 2621;—CL 1915, 2483;—CL 1929, 1395;—CL 1948, 54.99.

This section as originally enacted was numbered section 100.

54.100 County surveyor; record book, contents, certification; field notes, preservation, index, certificate; deposit, fireproof vault, location; public inspection; bookkeeping requirement.

Sec. 100. Each county surveyor shall record in a suitable book, to be provided by him at the expense of the county, all surveys for permanent purposes made by him and his deputies, also surveys for township highways and village plats. The record of each survey shall set forth the evidence by which the surveyor determined or identified the corners or other starting points of his survey, describing the points fully, and also setting forth whatever means were taken by him to perpetuate them upon the ground or to assist in determining and preserving their location. The record shall show the object of the survey and the methods pursued by the surveyor in making it, diagrams of plats

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being used to illustrate the same when necessary or convenient to do so. Upon the diagrams shall be shown the courses and distances of such boundary lines as may have been located by the survey, and such other facts as may have been determined by it. Such diagrams shall be considered a part of the record. When the courses of the lines are given by the magnetic needle, the record shall show the amount and direction of the allowance made by the surveyor for the difference between the magnetic meridian and the true meridian. The record shall show the date of the survey, the name of the person or persons for whom it was made, and the persons employed as chainmen on the survey. The surveyor shall certify upon the record that he has carefully compared the record with the original field notes taken by him at the time of the survey, and that it is a true statement of the facts of such survey, as shown by said original notes. Each county surveyor and his deputies shall keep the original field notes of all surveys made by them for permanent purposes, in books of convenient size and well bound in leather, to be furnished by the county surveyor, at the expense of the county. These notes shall be taken and set down in the manner in which field notes of the United States surveys are kept, and shall contain all the details of each survey, in the order in which the survey was made, including in full all calculations made by the surveyor to determine areas, or for measuring inaccessible distances, such as lake and river crossings, or for any other purpose required by the survey. Diagrams may be used for purposes of illustration, but shall not be used instead of the written notes required to be kept. Each field book shall contain an index referring to the surveys of which it contains the field notes. It shall also contain the certificate of the surveyor who made the surveys, that the field notes therein contained are the complete original field notes of the surveys within referred to and described. These original field notes shall be a part of the record required to be kept by the county surveyor, and the books containing them shall be deposited and kept with the other surveyor's records of the county. Each deputy county surveyor, whenever 1 of these books shall be filed with field notes by him, shall deposit the same in the office of the county surveyor, and whenever his own term of office expires, shall turn over to the county surveyor such books as have been partly filled by him. The county surveyor shall keep the field notes and other county surveyor's records in a fireproof vault, in an office at the county seat, to be designated by the board of supervisors as a depository for the same, excepting that this shall not apply to the field books which are required to be used in the field by the surveyor in making his surveys, during the time when such books are thus being used. The field notes and records required by this act shall be accessible to the public at any time, subject to such regulations as may be provided by the board of supervisors. The county surveyor and his deputies shall keep the records of their surveys required by this act written up in full for each month within 7 days after the close of the month.

HISTORY: CL 1857, 448;—Am. 1861, p. 554, Act 260, Eff. June 15;—Am. 1869, p. 255, Act 140, Eff. July 5;—CL 1871, 590;—Am. 1881, p. 80, Act 103, Imd. Eff. April 22;—How. 619;—Am. 1889, p. 105, Act 100, Eff. Oct. 2;—CL 1897, 2622;—Am. 1905, p. 105, Act 79, Eff. Sept. 16;—CL 1915, 2484;—CL 1929, 1396;—CL 1948, 54.100.

This amendatory act of 1905 contained a section 2, which repealed Act 195 of 1899, entitled, "An act to provide for the filing of a copy of the minutes made by surveyors or civil engineers in the subdivision of lands within the state."

54.101 County surveyor; delivery of records to successor, neglect, penalty.

Sec. 101. When the term of office of any county surveyor shall expire, or he shall resign or be removed, he shall deliver over all the books and papers relating to his office, to his successor therein, and any county surveyor who, on the expiration of his term of office, or on his resignation or removal, shall neglect for the space of 1 month after his successor shall be elected or appointed and qualified, to deliver such books and papers as aforesaid, and any executor or administrator of any deceased county surveyor, who shall neglect for the space of 1 month to deliver to such successor all such books and papers which shall come to his hands, shall forfeit and pay a sum not less than 10 nor

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more than 50 dollars, and a similar sum for every month thereafter during which he shall so neglect to deliver the same as aforesaid.

HISTORY: CL 1857, 449;—CL 1871, 591;—How. 620;—CL 1897, 2623;—CL 1915, 2485;—CL 1929, 1397;—CL 1948, 54.101.

See Sec. 1, Act 54 of 1845, p. 65.

This section as originally enacted was numbered section 102.

54.102 County surveyor; contract for copies of original federal surveys, payment, binding; records of former surveyors, payment; admissible as evidence.

Sec. 102. The county surveyor shall contract with the commissioner of the state land office, or with any person having possession of the same, for certified copies of the field notes and plats of the original surveys by the United States, of the lands of his county, and if such contract be approved by the board of supervisors of his county, the county surveyor shall, upon receiving such copies, direct the county clerk to draw an order upon the treasurer of his county for the amount so agreed upon, and transmit it to the said commissioner, or other person to whom it may be due, and shall have said plats and field notes substantially bound in book form, which shall be kept open in the said county surveyor's office for the benefit of the public; and all records of surveys, field notes and calculations made by any former county surveyor since the organization of the state government, and now in the hands of such former county surveyor, or of any other person, shall, on demand of the county surveyor of the proper county, be immediately delivered to him as a part of the records and files of his office, and the boards of supervisors of the several counties shall respectively audit and allow to the persons entitled thereto, such sum as they shall deem a reasonable compensation for the expense of the books containing such records. All such records of surveys, field notes, and calculations made by any former county surveyor, which have been or shall have been on file in the office of either the county surveyor, register of deeds or county clerk for a period of 15 years or upward, even though such records or the certification thereof shall not conform to the requirements specified in section 100 of this act, shall be admissible in evidence of the facts they contain in any court of record in this state.

HISTORY: CL 1857, 450;—Am. 1869, p. 256, Act 140, Eff. July 5;—CL 1871, 592;—How. 621;—CL 1897, 2624;—Am. 1915, p. 330, Act 196, Eff. Aug. 24;—CL 1915, 2486;—CL 1929, 1398;—CL 1948, 54.102.

COMMISSIONER OF STATE LAND OFFICE: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2, respectively.

This section as originally enacted was numbered section 103.

54.103 Survey principles.

Sec. 103. All surveys made by county surveyors in this state, must be made in accordance with the following principles, when applicable:

First, All corners that can be identified by the original field notes, or other unquestionable testimony, shall be regarded as the original corners, and must not be changed while they can be thus identified;

Second, Extinct interior-section corners must be re-established, at proportional distances as recorded in the original field notes from the nearest known point in the original section line, east and west, north and south from such extinct section corner;

Third, Any extinct quarter section corner, except on fractional section lines, must be re-established equidistant and in a right line between the section corners; in all other cases, at proportional distances between the nearest known points in the original line;

Fourth, Central quarter corners of whole sections, and of fractional sections adjoining the north and west boundary of townships, must be established at the intersection

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of 2 right lines connecting their opposite quarter section corners respectively. It shall be the duty of county surveyors to perpetuate the original corners they may work from, by noting new bearing trees where timber is near. They shall also perpetuate the principal corners made by themselves in the same manner.

HISTORY: CL 1857, 451;—Am. 1865, p. 484, Act 223, Eff. June 22;—Am. 1869, p. 256, Act 140, Eff. July 5;—CL 1871, 593;—Am. 1881, p. 87, Act 103, Imd. Eff. April 22;—How. 622;—CL 1897, 2625;—CL 1915, 2487;—CL 1929, 1399;—CL 1948, 54.103.

This section as originally enacted was numbered section 104.

For further authorities on subject of boundaries, etc., see notes to Compilers' § 565.1.

Sec. 104.

HISTORY: CL 1857, 452;—CL 1871, 594;—How. 623;—CL 1897, 2626;—Rep. 1915, p. 387, Act 229, Eff. Aug. 24.

54.105 Residents' corners and lines; re-location, perpetuation, survey; expenses, allocation; refusal to pay, lien.

Sec. 105. Whenever the majority of the resident owners of any section or part or parts of any section of land in this state, after having given at least 10 days' notice to all other persons or their agents owning land in the same section, or part or parts of the section, as the case may be, who reside in the township, shall desire to have their corners and lines, or any of them established, re-located or perpetuated, such surveyor shall proceed to make the required surveys and the expense thereof shall be borne by all the persons benefited in proportion to the amount of work done for each, to be determined by the surveyor, and if any person thus benefited, whether a non-resident or otherwise, shall refuse or neglect to pay his share of such expense, such surveyor shall certify the same and to whom due, to the supervisor of the proper township, who shall assess it upon the land of such person to be collected and paid to the county treasurer in the same manner as state and county taxes; and paid by the said county treasurer on the order of the county surveyor.

HISTORY: CL 1857, 453;—Am. 1869, p. 257, Act 140, Eff. July 5;—CL 1871, 595;—How. 624;—Am. 1895, p. 534, Act 240, Eff. Aug. 30;—CL 1897, 2627;—CL 1915, 2488;—CL 1929, 1400;—CL 1948, 54.105.

54.105a Residents' corners and lines; re-location, perpetuation, survey requested; refusal to pay surveyor's charges, assessment.

Sec. 105a. If any person, after having requested the county surveyor to establish, relocate or perpetuate the corners and lines of land owned by such person, shall refuse or neglect to pay for such services after due performance thereof, such surveyor shall certify the lawful charges for the same and to whom due to the supervisor of the proper township, who shall assess it upon the land so surveyed, to be collected and paid to the county treasurer in the same manner as state and county taxes, and paid by the said county treasurer on the order of the county surveyor.

HISTORY: Add. 1899, p. 388, Act 248, Eff. Sept. 23;—CL 1915, 2489;—CL 1929, 1401;—CL 1948, 54.105a.

54.106 County surveyor and deputies; compensation, expenses and fees; non-liability for trespass.

Sec. 106. Each county surveyor and his deputies shall be entitled to receive for their respective services, a compensation of not more than $8.00 per day, or such salary as the board of supervisors may fix, including the time of traveling to and from the place of making the survey, together with all necessary expenses incurred in the discharge of their duties, and 50 cents for recording each description, and 50 cents for each certificate or copy thereof, to be paid by the person for whom the services are rendered, and they shall not be liable to prosecution in an action of trespass for entering upon any lands in the discharge of their duties.

HISTORY: CL 1857, 454;—Am. 1861, p 555, Act 260, Eff. June 15;—Am. 1867, p. 145, Act 108, Imd. Eff. March 26;—Am. 1869, p. 258, Act 140, Eff. July 5;—CL 1871, 596;—How. 625;—CL 1897, 2628;—Am. 1915, p. 387, Act 229, Eff. Aug. 24;—CL 1915, 2490;—CL 1929, 1402;—Am. 1939, p. 222, Act 119, Eff. Sept. 29;—CL 1948, 54.106.

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Act 74, 1970, p. 171; Imd. Eff. Jul. 16.

AN ACT to protect and perpetuate public land survey corners; to require the establishment of monuments and the recording of information concerning public land survey corners; and to prescribe the duties of the register of deeds.

The People of the State of Michigan enact:

54.201 Short title; corner recordation act.

Sec. 1. This act shall be known and may be cited as the "corner recordation act".

HISTORY: New 1970, p. 171, Act 74, Imd. Eff. Jul. 16.

54.202 Corner recordation act; definitions.

Sec. 2. As used in this act:

(a) "Property corner" means a geographic point on the surface of the earth, which is on, is a part of and controls a property line.

(b) "Property controlling corner" for a property means a public land survey corner or any property corner which does not lie on a property line of the property in question but which controls the location of 1 or more of the property corners of the property in question.

(c) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government.

(d) "Corner", unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner or any combination of these.

(e) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes or other objects.

(f) "Monument" means an accessory that is presumed to occupy the exact position of a corner.

(g) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself but whose spatial relationship to the corner is recorded and which serves to witness the corner.

(h) "Registered surveyor" means a surveyor who is registered to practice land surveying under Act No. 240 of the Public Acts of 1937, as amended, being sections 338.551 to 338.576 of the Compiled Laws of 1948 and has a paid-up license for that calendar year, or who is authorized under such act to practice land surveying.

(i) The "board" is the state board of registration for architects, engineers and land surveyors.

HISTORY: New 1970, p. 171, Act 74, Imd. Eff. Jul. 16.

54.203 Corner record; mandatory completion, filing.

Sec. 3. A surveyor shall complete, sign, stamp with his seal and file with the register of deeds of the county where the corner is situated, a written record of corner establishment or restoration to be known as a "corner record" for every public land survey corner and accessory to such corner which is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated or used as control in any survey by such surveyor, and within 90 days thereafter, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this act.

HISTORY: New 1970, p. 172, Act 74, Imd. Eff. Jul. 16.

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54.204 Corner record; filing.

Sec. 4. A surveyor may file a corner record as to any property corner, property controlling corner, reference monument or accessory to a corner.

HISTORY: New 1970, p. 172, Act 74, Imd. Eff. Jul. 16.

54.205 Corner record; information included.

Sec. 5. The board, by rule, shall prescribe the information which shall be included in the corner record and the form in which the corner shall be presented and filed.

HISTORY: New 1970, p. 172, Act 74, Imd. Eff. Jul. 16.

54.206 Register of deeds; duties.

Sec. 6. (1) The register of deeds shall receive the completed corner record and preserve it in a hardbound book. The books shall be numbered in numerical order as filed.

(2) The register of deeds shall number the forms in numerical order as they are filed.

(3) The book and page number in which the corner record is filed shall be placed by the register of deeds near that same corner on a cross index plat which he shall provide for such a purpose.

(4) The register of deeds shall make these records available for public inspection during all usual office hours.

(5) For purposes of determining the filing fee, the corner record shall be considered as a similar service to recording a deed.

HISTORY: New 1970, p. 172, Act 74, Imd. Eff. Jul. 16.

54.207 Monuments; reconstruction or rehabilitation.

Sec. 7. In every case where a corner record of a public land survey corner is required to be filed under the provisions of this act, the surveyor shall reconstruct or rehabilitate the monument of such corner and accessories to such corner, so that it shall be left by him in such physical condition that it remains as permanent a monument as is reasonably possible and so that the same may be reasonably expected to be located with facility at all times in the future.

HISTORY: New 1970, p. 172, Act 74, Imd. Eff. Jul. 16.

54.208 Corner record; signing, sealing.

Sec. 8. No corner record shall be filed unless it is signed by a registered surveyor and stamped with his seal or in the case of an agency of the United States government or the state the certificate may be signed by the chief of the survey party making the survey and approved, signed and sealed by the registered surveyor in responsible charge of the agency.

HISTORY: New 1970, p. 172, Act 74, Imd. Eff. Jul. 16.

54.209 Corners previously established.

Sec. 9. Corner records may be filed concerning corners established, reestablished or restored before the effective date of this act.

HISTORY: New 1970, p. 172, Act 74, Imd. Eff. Jul. 16.

Act 132, 1970, p. 418; Eff. Apr. 1, 1971.

AN ACT to provide for the filing of surveys in the office of the register of deeds relative to land divisions; and to prescribe the conditions of the survey.

The People of the State of Michigan enact:

54.211 Certified surveys; recording.

Sec. 1. Whenever lands are divided into 4 parcels or less, or a greater number when such parcels are of 10 acres or more, or any boundary survey where permanent cor-

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ners are monumented, a certified survey shall be recorded in the office of the register of deeds in the county in which the land is situated, if such survey meets the requirements of this act.

HISTORY: New 1970, p. 418, Act 132, Eff. Apr. 1, 1971.

54.212 Survey and map; corners, monumented, contents.

Sec. 2. (1) The survey shall be performed and the map prepared by a land surveyor registered in this state.

(2) All corners shall be monumented in the field with ferrous metal stakes, unless previously monumented with iron stakes, capped with some device legibly showing the registry number of the registered land surveyor placing them, and shall include points of intersection of boundary or lot lines with highways, streets, alleys, section lines and meander lines, and corners of the United States public land survey from which the parcel or parcels are described.

HISTORY: New 1970, p. 418, Act 132, Eff. Apr. 1, 1971.

54.213 Map; requirements; acceptance, use.

Sec. 3. The map shall be prepared on durable white paper 8 ½ inches wide by 14 inches long. All lines shall be made with nonfading black ink on a scale of not more than 500 feet to an inch, and shown thereon, or, in lieu of the above, the map may be prepared on tracing cloth or paper, and a true scale photostat, or microfilm record thereof may be recorded and shall include the following:

(a) Certificate signed and sealed by the registered land surveyor who surveyed and mapped the parcel or parcels, typed, lettered or reproduced legibly with nonfading ink, giving a clear concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the United States public land survey, or reestablished in accordance with accepted methods. Such certificate shall also include the ratio of closure of latitudes and departures, which shall be within limits accepted by the profession of land surveying and certification by the registered land surveyor that he has fully complied with the requirements of this section.

(b) The exterior boundaries of the land surveyed and divided, together with the line or lines leading to the United States public land survey corner, or corners, from which the land is described. Boundaries along a lake or stream shall be defined by a meander line connecting the side boundaries of the parcel.

(c) When the boundary of the parcel follows or parallels a section line, the section line shall be defined at its extremities by a corner established in the United States public land survey or reestablished in accordance with accepted methods. All corners of the United States public land survey shall be duly witnessed to permanent objects, and kind of object, and the bearings and distances thereto, together with the kind and material of monumentation marking the corner shall be shown on the map.

(d) Curved boundaries or curved highway, street lines and lot lines, when the curve is contained within the line, shall be defined by the points of curvature and tangency and compound curvature, central angle, length of arcs, degree of curvature, length and bearing of the long chord, or, when only partially contained within the line, by the length of arc along the curve, degree of curvature, length and bearing of the short chord, or by traverse courses and distances where the curve is not regular.

(e) Where the exterior boundary lines show bearings or lengths which vary from those recorded in abutting plats or certified surveys, there shall be the following note placed along such lines "recorded as (show bearings or lengths or both)".

(f) Lengths and bearings of all lines.

(g) Exact widths of streets, highways, alleys and easements.

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(h) Distances on boundaries or lot lines from the point of intersection with a meander line to apparent ordinary high water line of Great Lakes waters and to the water's edge of inland lakes and streams.

(i) A north point properly located thereon.

(j) Certified survey maps prepared in accordance with this section shall be accepted, upon payment of the regular fee schedule applying to deeds and mortgages, and numbered consecutively by the register of deeds and shall be recorded in bound volumes, or in a manner adapted to a microfilm system of preserving records, and known as the "certified survey maps of ..... county", and shall become a part of the land records thereof, and a separate card file shall be kept showing by section, township and range and also by title of recorded plat if a resurvey within such plat, the designating number liber and page of the certified maps filed in the bound volume or microfilm record.

(k) When a certified survey map has been recorded in accordance with this section, the parcels of land in the map may be described with a supplemental reference to the number of the survey, the volume and page where recorded, and the name of the county, for all purposes, including assessment, taxation, devise, descent and conveyance.

HISTORY: New 1970, p. 418, Act 132, Eff. Apr. 1, 1971.

Act 149, 1883, p. 160; Eff. Sep. 8.

AN ACT to authorize the board of supervisors of the several counties in this state to provide for ascertaining, preserving and maintaining the original section corners and quarter posts, as surveyed and recorded by the original survey, and to repeal Act No. 159 of the session laws of 1877, Act No. 205 of the session laws of 1879 and Act No. 73 of the session laws of 1881.

The People of the State of Michigan enact:

54.221 Section corners and quarter posts; establishment, records; referendum, tax levy, limitation.

Sec. 1. That the boards of supervisors of the several counties in this state are hereby authorized to establish and perpetuate any government section corners or quarter posts in their respective counties, which they may have good reason to believe are lost or are in danger of being lost, by the employment of a surveyor therefor, who shall keep a full and complete record of his work, giving in detail the evidences by which any corner is identified, also the manner in which any lost corner is identified, also the manner in which lost corners are reestablished; which record shall be kept in the same book provided by the county for surveyors' records, and kept in the office of the county surveyor, and the record so made and entered by the surveyor aforesaid, shall be received as evidence in all the courts of this state wherein any question may arise as to the establishment or identification of such corner or corners: Provided, That such work shall be done only in such townships where a majority of the voters, voting, shall vote to raise such sum as is required, not exceeding 250 dollars for any 1 township of 36 sections, or in that proportion for townships of greater or lesser size, for such work by any surveyor authorized to do such work, as provided in section 1 of this act: And provided further, That nothing in this act shall apply to lands where section and quar-

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ter section lines are already properly established. Such sum to be assessed upon the real estate of such township, according to its cash value. Such assessment to be levied and the taxes therefrom collected in the same manner as other assessments and collection of taxes are made.

HISTORY: How. 510a;—CL 1897, 2511;—CL 1915, 2329;—CL 1929, 1183;—CL 1948, 54.221.
SECTION CORNERS AND BOUNDARIES: Establishment, see Compilers' § 322.241 et seq.

54.222 Section corners and quarter posts; marking; removal, penalty.

Sec. 2. The surveyor as above employed shall sink into the earth at all section and quarter post corners from the surface to a depth of at least 3 feet, a column of broken brick, charcoal, broken stones, or other easily distinguishable substance, of a diameter of at least 3 inches, and carefully describe the same in the records of his survey, and also to mark and record new witness trees wherever possible to do so, and if any person shall wilfully cut down, destroy, deface or injure any living witness tree, or remove a corner post in any shape, as above established, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than 25 dollars nor more than 50 dollars.

HISTORY: How. 510b;—Am. 1889, p. 77, Act 71, Eff. Sept. 8;—CL 1897, 2512;—CL 1915, 2330;—CL 1929, 1184;—CL 1948, 54.222.

Sec. 3. (This was a repeal section.)

HISTORY: How. 510c;—CL 1897, 2512a;—CL 1915, 2331;—CL 1929, 1185;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.
ACTS REPEALED: Act 159, 1877; Act 205, 1879; Act 73, 1881.

Act 9, 1964, p. 14; Eff. Aug. 28.

AN ACT to describe, define and officially adopt a system of coordinates for designating the position of points on the surface of the earth within this state.

The People of the State of Michigan enact:

54.231 Michigan coordinate system; division of state into zones.

Sec. 1. (1) The system of plane coordinates which has been established by the United States coast and geodetic survey for defining and stating the positions or locations of points on the surface of the earth within this state is hereafter to be known and designated as the Michigan coordinate system.

(2) For the purpose of the use of this system the state is divided into a north zone, a central zone and a south zone.

(3) The area now included in the following counties constitutes the north zone: Gogebic, Ontonagon, Houghton, Keweenaw, Baraga, Iron, Marquette, Dickinson, Menominee, Alger, Delta, Schoolcraft, Luce, Chippewa and Mackinac.

(4) The area now included in the following counties constitutes the central zone: Emmet, Cheboygan, Presque Isle, Charlevoix, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin and Arenac.

(5) The area now included in the following counties constitutes the south zone: Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, Huron, Muskegon, Montcalm, Gratiot, Saginaw, Tuscola, Sanilac, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee and Monroe.

HISTORY: New 1964, p. 14, Act 9, Eff. Aug. 28.
CITED IN OTHER SECTIONS: Sections 54.231 to 54.239 are cited in § 560.102.

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54.232 Michigan coordinate zones; land description.

Sec. 2. (1) As established for use in the north zone, the Michigan coordinate system shall be named, and in any land description in which it is used it shall be designated the Michigan coordinate system, north zone.

(2) As established for use in the central zone, the Michigan coordinate system shall be named, and in any land description in which it is used it shall be designated the Michigan coordinate system, central zone.

(3) As established for use in the south zone, the Michigan coordinate system shall be named, and in any land description in which it is used it shall be designated the Michigan coordinate system, south zone.

HISTORY: New 1964, p. 15, Act 9, Eff. Aug. 28.

54.233 Michigan coordinate system; use of plane coordinates.

Sec. 3. The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of such point in the appropriate zone of this system, shall consist of 2 distances, expressed in American survey feet and decimals thereof. One of these distances, to be known as the "x-coordinate", shall give the position in an east and west direction; the other, to be known as the "y-coordinate", shall give the position in a north and south direction. These coordinates shall be made to depend upon and conform to the coordinates, on the Michigan coordinate system, of the triangulation and traverse stations of the United States coast and geodetic survey within this state, as those coordinates have been determined by the survey.

HISTORY: New 1964, p. 15, Act 9, Eff. Aug. 28.

54.234 Michigan coordinate system; land description of overlapping zones.

Sec. 4. When any tract of land to be defined by a single description extends from 1 into another of the above coordinate zones, the positions of all points on its boundaries may be referred to either of the 2 zones, the zone which is used being specifically named in the description.

HISTORY: New 1964, p. 15, Act 9, Eff. Aug. 28.

54.235 Michigan coordinate system; definition.

Sec. 5. (1) For the purposes of more precisely defining the Michigan coordinate system the following definition by the United States coast and geodetic survey is adopted:

(a) The Michigan coordinate system, north zone, is a Lambert conformal projection of the Clarke spheroid of 1866, magnified in linear dimension by a factor of 1.0000382, having standard parallels at north latitudes 45 degrees 29 minutes and 47 degrees 5 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 87 degrees zero minutes west of Greenwich and the parallel 44 degrees 47 minutes north latitude. This origin is given the coordinates: x= 2,000,000 feet and y=0 feet.

(b) The Michigan coordinate system, central zone, is a Lambert conformal projection of the Clarke spheroid of 1866, magnified in linear dimension by a factor of 1.0000382, having standard parallels at north latitude 44 degrees 11 minutes and 45 degrees 42 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 84 degrees 20 minutes west of Greenwich and the parallel 43 degrees 19 minutes north latitude. This origin is given the coordinates: x=2,000,000 feet and y=0 feet.

(c) The Michigan coordinate system, south zone, is a Lambert conformal projection of the Clarke spheroid of 1866, magnified in linear dimension by a factor of 1.0000382, having standard parallels at north latitude 42 degrees 6 minutes and 43 degrees 40 minutes along which parallels the scale shall be exact. The origin of coordinates is at

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the intersection of the meridian 84 degrees 20 minutes west of Greenwich and the parallel 41 degrees 30 minutes north latitude. This origin is given the coordinates: x = 2,000,000 feet and y = 0 feet.

(2) The position of the Michigan coordinate system shall be as marked on the ground by triangulation or traverse stations established in conformity with standards adopted by the United States coast and geodetic survey for first-order and second-order geodetic control surveys, whose geodetic positions have been rigidly adjusted on the North American datum of 1927, and whose coordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with the Michigan coordinate system.

HISTORY: New 1964, p. 15, Act 9, Eff. Aug. 28.

54.236 Coordinates; condition for use when recording.

Sec. 6. No coordinates based on the Michigan coordinate system, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless such point is within 1/2 mile of a triangulation or traverse station established in conformity with the standards prescribed in section 5 of this act.

HISTORY: New 1964, p. 16, Act 9, Eff. Aug. 28.

54.237 Coordinates; use on maps, surveys and documents.

Sec. 7. The use of the term Michigan coordinate system on any map, report of survey, or other document, shall be limited to coordinates based on the Michigan coordinate system as defined in this act.

HISTORY: New 1964, p. 16, Act 9, Eff. Aug. 28.

54.238 Coordinates; supplemental use for plat description, conflict.

Sec. 8. Wherever coordinates based on the Michigan coordinate system are used to describe any tract of land which in the same document is also described by reference to any subdivision, line, or corner of the United States public land surveys, or to any subdivision plat duly recorded in accordance with Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line, or corner contained in the official plats and field notes filed of record, and in the event of any conflict the description by reference to the subdivision, line, or corner of the United States public land surveys, or recorded subdivision plat, shall prevail over the description by coordinates.

HISTORY: New 1964, p. 16, Act 9, Eff. Aug. 28.

54.239 Coordinate land description not exclusive.

Sec. 9. Nothing contained in this act shall require any purchaser or mortgagee to rely on a description, which depends exclusively upon the Michigan coordinate system.

HISTORY: New 1964, p. 16, Act 9, Eff. Aug. 28.

Act 196, 1941, p. 294; Eff. Jan. 10, 1942.

AN ACT to abolish the office of county surveyor in counties having a population of 500,000 or over; and to provide a referendum thereon.

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The People of the State of Michigan enact:

54.251 County surveyor in counties over 500,000; office abolished.

Sec. 1. The office of county surveyor in counties having a population of 500,000 or over, according to the latest federal census is hereby abolished.

HISTORY: CL 1948, 54.251.

NOTE: In 1948 Wayne county was the only county with this population.

This act was adopted in Wayne county at the November 3, 1942 election.

54.252 Referendum on adoption of act; ballot, form.

Sec. 2. The provisions of this act shall not become operative in any county of the state to which it may apply unless and until it is submitted to a vote of the qualified electors voting thereon at the next general election after the passage of this act or after any such county shall reach a population of 500,000 or over. Like notice of the submission of the adoption of the provisions of this act shall be given as is required by law in the case of elections to elect county officers, and such question shall be submitted in substantially the following form:

"Shall the provisions of Act No. (here insert number of this act) of the Local Acts of 1941, providing for the abolishing of the office of county surveyor in counties having a population of 500,000 or over, be adopted by this county?

Yes ( )

No ( )."

If a majority of the electors voting on such proposition in any such county, as determined by the canvass of votes cast, shall vote in favor thereof, from and after such determination, the provisions of this act shall be in force, and the office of county surveyor in such county shall be abolished.

HISTORY: CL 1948, 54.252.

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CHAPTER 55. NOTARIES PUBLIC

EXECUTIVE ORDER

55.101 Executive reorganization order no. 1970-1; delegation of notaries public functions.

NOTARIES PUBLIC

Ch. 14, R.S. 1846 (cont'd.)

55.107 Notaries public; appointment, terms, qualifications, application; revocation of commission; fees, deposit.
Change of name of notary.

55.108 Notaries public; transmission of commission, notice.

55.109 Notaries public; oath; quarterly lists to secretary of state; county clerk, fees.

55.110 Notaries public; bond, approval.

55.111 Notaries public; delivery of commission by county clerk, notice to secretary of state.

55.112 Notaries public; powers and duties.

55.113 Notaries public; certificate admissible as evidence, exception.

55.114 Notaries public; vacancies; deposit of records with county clerk, neglect, penalty.

55.115 Records; destruction, penalty, civil liability.

55.116 Records; custody of county clerk; copies, fees.

55.117 Notaries public; residency, jurisdiction, fees.

EXPIRATION DATE OF COMMISSIONS

Act 18 of 1903

55.221 Notaries public; expiration date of commission required on instruments, validity.

NOTARY CONNECTED WITH BANK OR CORPORATION

Act 18 of 1909

55.251 Notaries public; connection with bank or corporation, powers limited.

EXECUTIVE ORDER

55.101 Executive reorganization order no. 1970-1; delegation of notaries public functions.

WHEREAS, the Governor may appoint one or more persons notaries public in each county of this state, and;

WHEREAS, persons desiring to be appointed as notaries public shall make written application to the Governor for his approval, and;

WHEREAS, all or any portion of the Governor's functions respecting notaries public may be delegated by Executive Order to the Department of State.

THEREFORE, I, William G. Milliken, Governor of the State of Michigan, pursuant to Act No. 380, paragraph 33 of the Public Acts of 1965, do hereby transfer and delegate to the Department of State all ministerial and clerical duties and functions relative to processing applications for notaries public.

HISTORY: New 1970, p. 686, E.R.O. No. 1970-1, Eff. Feb. 9.

R.S. 1846, Ch. 14 (continued).

NOTARIES PUBLIC.

55.107 Notaries public; appointment, terms, qualifications, application; revocation of commission; fees, deposit.

Sec. 107. The governor may appoint 1 or more persons notaries public in each county of this state, who shall hold their offices respectively for 4 years from the date of their appointment, unless sooner removed by the governor. No person shall be eligible to receive such an appointment unless he or she shall be, at the time of making application for appointment, of the age of 21 years, a resident of the county of which he or she desires to be appointed notary public, and a citizen of this state. The person desiring to be appointed shall make a written application on an official form distributed by the county clerk of each county, stating the age of the applicant, which application shall be indorsed by a member of the legislature, or some circuit or probate judge of the county, district or circuit of which the applicant is a resident, and be presented to the governor, accompanied by a fee of $2.00. Under no circumstances shall such application form be indorsed in blank, prior to completion and signature by the applicant. The governor may revoke a commission issued to a notary public upon presentation to him of satisfactory evidence of official misconduct or incapacity. The governor shall

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revoke the commission issued to a notary public upon presentation to him of satisfactory evidence of the notarization of a paper or document prior to completion by the person whose signature is notarized. On the last days of March, June, September and December of each year, the governor shall deposit all fees so received by him during the last preceding quarter with the state treasurer, which shall be placed in the general fund.

Change of name of notary.

Any notary public whose name has been changed pursuant to law subsequent to the issuance of a commission shall continue to use the name set forth in the commission for all purposes authorized under such commission until the expiration thereof.

HISTORY: CL 1857, 455;—CL 1871, 597;—How. 626;—Am. 1887, p. 132, Act 117, Eff. Sept. 28;—Am. 1889, p. 79, Act 74, Imd. Eff. May 7;—CL 1897, 2629;—CL 1915, 2491;—Am. 1925, p. 512, Act 340, Eff. Aug. 27;—CL 1929, 1403;—CL 1948, 55.107;—Am. 1953, p. 104, Act 107, Eff. Oct. 2;—Am. 1954, p. 6, Act 5, Imd. Eff. Feb. 26;—Am. 1963, p. 19, Act 14, Eff. Sept. 6.

This section as originally enacted was numbered section 108.

TRANSFER OF GOVERNOR'S FUNCTIONS: Transfer of Governor's functions to Department of State, see Compilers' § 55.101.

CITED IN OTHER SECTIONS: The above section is cited in § 16.133.

55.108 Notaries public; transmission of commission, notice.

Sec. 108. Whenever the governor shall appoint a notary public, the secretary of state shall transmit his commission to the clerk of the county for which such notary was appointed; and the county clerk, on receiving such commission, shall give notice thereof to the person so appointed.

HISTORY: CL 1857, 456;—CL 1871, 598;—How. 627;—CL 1897, 2630;—CL 1915, 2492;—CL 1948, 55.108.

55.109 Notaries public; oath; quarterly lists to secretary of state; county clerk, fees.

Sec. 109. The person so appointed shall, before entering upon the duties of his office, and within 90 days after receiving notice from the county clerk of his appointment, take and file with the county clerk the oath prescribed by the constitution, and the said clerk shall file the oath thus taken in his office, and on the last day of December, March, June and September in each year, he shall transmit to the secretary of state a written list, containing the names of all persons to whom, during each preceding quarter he has delivered commissions, the date of filing their oaths and bonds, and their respective postoffice addresses with his certificate that such persons have fully complied with the provisions of law in regard to their qualification for the discharge of the duties of the office of notary public; and said clerk, for all his services required by this act, shall be entitled to receive the sum of $1.00 from each person so qualifying: Provided, Whenever the county clerk of any county shall be appointed to the office of notary public, the oath of office required of him by the constitution shall be filed with the judge of probate of such county.

HISTORY: CL 1857, 457;—Am. 1863, p. 127, Act 87, Imd. Eff. March 11;—Am. 1871, p. 324, Act 193, Eff. July 18;—CL 1871, 599;—Am. 1873, p. 87, Act 75, Imd. Eff. April 4;—Am. 1879, p. 43, Act 47, Imd. Eff. April 28;—How. 628;—Am. 1887, p. 133, Act 117, Eff. Sept. 28;—CL 1897, 2631;—CL 1915, 2493;—CL 1929, 1405;—CL 1948, 55.109;—Am. 1949, p. 14, Act 15, Eff. Sept. 23;—Am. 1957, p. 89, Act 83, Eff. Sept. 27.

This section in Act 117, 1887, was numbered section 2, but title amended section 109.

This section as originally enacted was numbered section 110.

55.110 Notaries public; bond, approval.

Sec. 110. Each notary public shall, also, before entering upon the duties of his office, and within the time limited for filing his official oath, give bond to the people of this state, with 1 or more sureties, to be approved by the county clerk, in the penal sum of 1,000 dollars, the condition of which bond shall be that such notary shall duly and faithfully discharge the duties of his office, and he shall file the same with said clerk: Provided, Whenever the county clerk of any county shall be appointed to the office of notary public, the bond required by this section shall be approved by, and filed with the judge of probate of such county.

HISTORY: CL 1857, 458;—CL 1871, 600;—Am. 1879, p. 43, Act 47, Imd. Eff. April 28;—How. 629;—CL 1897, 2632;—CL 1915, 2494;—CL 1929, 1406;—CL 1948, 55.110.

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55.111 Notaries public; delivery of commission by county clerk, notice to secretary of state.

Sec. 111. Upon the filing of the official oath and bond, as required in the 2 next preceding sections, the clerk shall deliver to the person so appointed the commission received by him for such person: Provided, That where such oath and bond shall have been filed with the judge of probate, as provided in the 2 next preceding sections, he shall give the same notice thereof to the secretary of state as is required in this section to be given by the county clerk.

HISTORY: CL 1857, 459;—CL 1871, 601;—Am. 1879, p. 43, Act 47, Imd. Eff. April 28;—How. 630;—Am. 1887, p. 133, Act 117, Eff. Sept. 28;—CL 1897, 2633;—CL 1915, 2495;—CL 1929, 1407;—CL 1948, 55.111.

This section in Act 117, 1887, was numbered section 3, but title amended section 111.

55.112 Notaries public; powers and duties.

Sec. 112. Notaries public shall have authority to take the proof and acknowledgments of deeds; to administer oaths, and take affidavits in any matter or cause pending, or to be commenced or moved in any court of this state; to demand acceptance of foreign and inland bills of exchange, and of promissory notes, and to protest the same for non-acceptance, or non-payment, as the case may require; and to exercise such other powers and duties, as by the law of nations, and according to commercial usage, or by the laws of any other state, government or country, may be performed by notaries public.

HISTORY: CL 1857, 460;—CL 1871, 602;—How. 631;—CL 1897, 2634;—CL 1915, 2496;—CL 1929, 1408;—CL 1948, 55.112.

This section as originally enacted was numbered section 113.

PROBATE COURT: For power of notary to administer oaths to persons involved in proceedings in such courts, see Compilers' § 701.16.

BANK OFFICER AS NOTARY: See Compilers' § 55.251.

55.113 Notaries public; certificate admissible as evidence, exception.

Sec. 113. In all the courts of this state the certificate of a notary public, under his hand and seal of office, of official acts done by him as such notary, shall be received as presumptive evidence of the facts contained in such certificate, but such certificate shall not be evidence of notice of non-acceptance or non-payment in any case in which a defendant shall annex to his plea, an affidavit denying the fact of having received such notice.

HISTORY: CL 1857, 461;—CL 1871, 603;—How. 632;—CL 1897, 2635;—CL 1915, 2497;—CL 1929, 1409;—CL 1948, 55.113.

This section as originally enacted was numbered section 114.

55.114 Notaries public; vacancies; deposit of records with county clerk, neglect, penalty.

Sec. 114. Whenever the office of any notary public shall become vacant, the records of such notary and all the papers relating to his office, shall be deposited in the office of the clerk of the proper county; and any notary who on his resignation or removal from office, shall neglect for the space of 3 months to deposit such records and papers, and any executor or administrator of any deceased notary public, who shall neglect for the space of 3 months after his appointment, to deposit with said clerk all such records and papers as shall come to his hands, shall forfeit and pay a sum not less than 50 dollars, nor more than 200 dollars.

HISTORY: CL 1857, 462;—CL 1871, 604;—How. 633;—CL 1897, 2636;—CL 1915, 2498;—CL 1929, 1410;—CL 1948, 55.114.

This section as originally enacted was numbered section 115.

55.115 Records; destruction, penalty, civil liability.

Sec. 115. If any person shall knowingly destroy, deface, or conceal any records or papers belonging to the office of a notary public, he shall forfeit and pay a sum not exceeding 500 dollars; and such person shall also be liable to an action for damages at the suit of the party injured.

HISTORY: CL 1857, 463;—CL 1871, 605;—How. 634;—CL 1897, 2637;—CL 1915, 2499;—CL 1929, 1411;—CL 1948, 55.115.

This section as originally enacted was numbered section 116.

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55.116 Records; custody of county clerk; copies, fees.

Sec. 116. The county clerk shall receive and safely keep all the records and papers of notaries public, directed to be deposited in his office, and shall give certified copies of such records and papers, under his hand and seal, when required; and for such copies he shall receive the same fees as are by law allowed to notaries public; and copies so given by said clerk shall be as valid and effectual as if given by a notary public.

HISTORY: CL 1857, 464;—CL 1871, 606;—How. 635;—CL 1897, 2638;—CL 1915, 2500;—CL 1929, 1412;—CL 1948, 55.116.

This section as originally enacted was numbered section 117.

55.117 Notaries public; residency, jurisdiction, fees.

Sec. 117. Notaries public shall reside in the county for which they are appointed, but they may act as such notaries in any part of this state; and they shall receive for their services such fees as are provided by law.

HISTORY: CL 1857, 465;—CL 1871, 607;—How. 636;—CL 1897, 2639;—CL 1915, 2501;—CL 1929, 1413;—CL 1948, 55.117.

This section as originally enacted was numbered section 118.

Act 18, 1903, p. 23; Eff. Sep. 17.

AN ACT to require notaries public to affix to each affidavit, deposition, certificate and acknowledgment given or taken by them, and to all other instruments signed notarially the date of expiration of their commissions, their commissioned names and the county of authorization. Am. 1954, p. 70, Act 59, Eff. Aug. 13.

The People of the State of Michigan enact:

55.221 Notaries public; expiration date of commission required on instruments, validity.

Sec. 1. Notaries public shall legibly type, print or stamp on each affidavit, deposition, certificate and acknowledgment given or taken by them, and to all other instruments signed notarially, the date upon which their commissions shall expire, their commissioned names and the name of the county in which they are authorized to officiate: Provided, however, That where any such instrument has been heretofore or shall be hereafter recorded in the office of the register of deeds of any county without the date upon which said notary commission expires being affixed thereto, or shown on the record of such instrument, a certificate by a county clerk may be recorded in such register's office. Upon the recording of such certificate, showing that such person taking such acknowledgment was actually a notary public of such county on the date of such acknowledgment and giving the date on which his commission would expire, the record of such certificate and the record of such instrument shall be effectual for all purposes of a legal record, and the record of such instrument and such certificate or a transcript thereof may be given in evidence as in other cases, and such instrument shall be construed to be as valid and effectual as if such instrument had been in such respect duly executed.

HISTORY: CL 1915, 2502;—CL 1929, 1414;—Am. 1937, p. 106, Act 78, Imd. Eff. Jun. 14;—CL 1948, 55.221;—Am. 1954, p. 71, Act 59, Eff. Aug. 13.

Act 18, 1909, p. 24; Eff. Sep. 1.

AN ACT concerning notaries public who are stockholders, directors, officers or employes of banks or other corporations.

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The People of the State of Michigan enact:

55.251 Notaries public; connection with bank or corporation, powers limited.

Sec. 1. It shall be lawful for any notary public who is a stockholder, director, officer or employe of a bank or other corporation to take the acknowledgment of any party to any written instrument executed to or by such corporation, or to administer an oath to any other stockholder, director, officer, employe or agent of such corporation, or to protest for non-acceptance or non-payment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by such bank or other corporation: Provided, It shall not be lawful for any notary public to take the acknowledgment of an instrument by or to a bank or other corporation of which he is a stockholder, director, officer or employe, where such notary is named as a party to such instrument, either individually or as a representative of such bank or other corporation, or to protest any negotiable instrument owned or held for collection by such bank or other corporation, where such notary is individually a party to such instrument.

HISTORY: CL 1915, 2503;—CL 1929, 1415;—CL 1948, 55.251.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 2504;—CL 1929, 1416;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

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CHAPTERS 61-75. VILLAGES

Incorporation of Villages
Act 3 of 1895

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Act 3, 1895, p. 6; Imd. Eff. Feb. 19.

AN ACT to provide for the incorporation of villages; to define their powers and duties; to define the powers and duties of the municipal finance commission with regard thereto; to define the application of this act and provide for its amendment by villages subject thereto; and to validate prior amendments and certain prior actions taken and bonds issued by villages. Am. 1954, p. 299, Act 119, Eff. Aug. 13;—Am. 1962, p. 397, Act 186, Imd. Eff. May 24.

The People of the State of Michigan enact:

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CHAPTER I—INCORPORATION.

61.1 Incorporation of villages.
61.1a Incorporation of villages; definitions.
61.1b Construction of act; validation of bonds.
61.2 Population and area necessary.
61.3 Application.
61.4 Application; census, contents.
61.5 Application; notice, contents.
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61.7 Application by petition; contents; annexed papers.
61.8 Board of supervisors; duties; hearing, determination.
61.9 Order of incorporation; filing, evidence; records of board, contents, filing; first election, procedure.
61.10 Election notices; polls, hours open.
61.11 Voting qualifications.
61.12 Villages incorporated; bodies politic; powers.
61.14 Board of registration; duties, session periods, notice; per diem.
61.15 Registration.

61.1 Incorporation of villages.

Sec. 1. That all villages hereafter incorporated shall be incorporated under, and be subject to, the provisions of this act.

HISTORY: CL 1897, 2684;—CL 1915, 2555;—CL 1929, 1465;—CL 1948, 61.1.

See Act 278 of 1909, being Compilers' § 78.1 et seq., which supersedes this act in so far as new incorporations are concerned.

CITED IN OTHER SECTIONS: Sections 61.1 to 75.12 are cited in §§ 41.354, 41.413, 41.803, 42.31, and 123.36.

61.1a Incorporation of villages; definitions.

Sec. 1a. As used in this act: The phrase "having a population," or any phrase or combination of words of like import, shall be construed to mean "now or hereafter having a population of." The words "last," "latest," "preceding" or "last preceding" used in connection with a "federal" or "United States" or other census, or any words, phrases or combinations of words of like import, shall be construed to also include any such census taken after the enactment of the statute.

HISTORY: Add. 1945, p. 23, Act 24, Eff. Sept. 6;—CL 1948, 61.1a.

61.1b Construction of act; validation of bonds.

Sec. 1b. No provision of this act shall apply or be construed as having heretofore applied to any village incorporated or reincorporated under Act No. 278 of the Public Acts of 1909, as amended, being sections 78.1 to 78.28 of the Compiled Laws of 1948, unless specifically adopted by the electors as a part of its village charter. The provisions of this act shall be deemed to be in the nature of charter provisions for any village incorporated thereunder or subject thereto and any such provision may be altered or removed by amendment adopted by the electors as provided in Act No. 278 of the Public Acts of 1909, as amended, provided that the effect of the amendment is such as might legally be accomplished by charter provision in the case of a village operating under Act No. 278. All such amendments heretofore so adopted by any village incorporated under or subject to this act, and all actions heretofore taken and all bonds heretofore issued under or in accordance with such amendments, are hereby validated to the same effect as if the foregoing provision had been in effect when such amendments were adopted.

HISTORY: Add. 1962, p. 398, Act 186, Imd. Eff. May 24.

61.2 Population and area necessary.

Sec. 2. Any part of a township or townships not included in any incorporated village, containing an area of not less than 3/4 of a square mile, and a resident population of not less than 250 persons, may be incorporated as a village as hereinafter provided: Provided, however, That in the upper peninsula of Michigan an area of less than 3/4 of a square mile may be incorporated as hereinafter provided.

HISTORY: CL 1897, 2685;—Am. 1903, p. 66, Act 51, Imd. Eff. April 23;—CL 1915, 2556;—Am. 1917, p. 815, Act 334, Eff. Aug. 10;—CL 1929, 1466,—CL 1948, 61.2.

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61.3 Application.

Sec. 3. Any number of legal voters, not less than 30 residing within such territory, may make application for the incorporation of such proposed village to the board of supervisors of the county in which such territory may be situated, at any regular session of such board.

HISTORY: CL 1897, 2686;—CL 1915, 2557;—CL 1929, 1467;—CL 1948, 61.3.

61.4 Application; census, contents.

Sec. 4. Such persons shall within 60 days before making such application, cause an accurate census to be taken of the resident population of such territory; which census among other things, shall exhibit the name of every head of a family residing within such territory on such day, and the number of persons then belonging to such family; and it shall be verified by the affidavit of the person taking the same, written thereon or annexed thereto.

HISTORY: CL 1897, 2687;—CL 1915, 2558;—CL 1929, 1468;—CL 1948, 61.4.

61.5 Application; notice, contents.

Sec. 5. The persons intending to make such application shall give notice that they will apply to the board of supervisors of the county in which such territory shall lie, on some day therein specified, for an order incorporating such territory as a village; such notice shall describe the boundaries of the territory proposed to be incorporated, and shall specify the township or townships in which it lies.

HISTORY: CL 1897, 2688;—CL 1915, 2559;—CL 1929, 1469;—CL 1948, 61.5.

61.6 Application; notice, publication.

Sec. 6. If there be a newspaper printed within such territory, such notice shall be printed therein once in each week for 4 successive weeks immediately previous to the time therein specified for making such application; and if there shall be no such paper, such notice shall be printed in some newspaper if there be one printed in said county and having a general circulation therein and posted in at least 5 public places in such territory, at least 4 weeks immediately before the time so specified therein.

HISTORY: CL 1897, 2689;—CL 1915, 2560;—CL 1929, 1470;—CL 1948, 61.6.

61.7 Application by petition; contents; annexed papers.

Sec. 7. Such application shall be by petition, subscribed by the applicants, who shall be residents of such territory and legal voters therein, giving the name of the proposed village, describing such territory and setting forth the number of persons residing therein according to such census; such census and the affidavit verifying the same, and a copy of the notice herein required, with an affidavit of posting or publishing the same as aforesaid, shall be annexed to such petition; and it shall be presented at the time specified in such notice, or as soon thereafter as the applicants can be conveniently heard in respect thereto.

HISTORY: CL 1897, 2690;—CL 1915, 2561;—CL 1929, 1471;—CL 1948, 61.7.

61.8 Board of supervisors; duties; hearing, determination.

Sec. 8. The board of supervisors shall hear all the parties interested therein, who shall appear and ask to be heard; it may adjourn the hearing from time to time; it may direct that a new census be taken, and appoint a person or persons to take the same; and it shall consider and determine the advisability of ordering such incorporation, and as to whether the whole or what portion of the territory included in the application shall be incorporated.

HISTORY: CL 1897, 2691;—CL 1915, 2562;—CL 1929, 1472;—CL 1948, 61.8.

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61.9 Order of incorporation; filing, evidence; records of board, contents, filing; first election, procedure.

Sec. 9. If such board, after hearing the parties, shall be satisfied that all the requirements of this act in respect to such application have been complied with, and that such territory as determined upon contains the population required by this act, it may make an order declaring that such territory as determined upon shall be an incorporated village, by the name specified in such application, or by such other name as to such board shall seem proper; and said board shall in such order appoint the time and place of holding the first election; and shall also appoint 4 discreet persons, residents of such territory and qualified electors therein, who shall constitute a board of registration for said first election to be held in said village, and who shall also act as inspectors of election at said first election. The said board of registration shall meet on the Saturday next preceding said first election, and shall remain in session the same hours required of boards of registration for general elections, and register the names of all persons residents of said village, presenting themselves for registration, and having the qualifications of voters at annual township meetings, due notice of the time and place of which registration shall be given by said board, by posting notices thereof in 5 public places in said village, at least 10 days previous to said meeting. Such application and affidavit verifying the same, with copy of notice of hearing and proof of the posting or publishing of the same, and all the proceedings of such board of supervisors touching such incorporation shall be entered upon the records of said board, and all papers relating thereto shall be filed with the county clerk of the county in which such proceedings are had and taken, and the county clerk of said county shall thereupon transmit a certified copy of such order of incorporation to the secretary of state, who shall file and record the same in his office. The original order of incorporation, or a certified copy thereof by the county clerk of such county or a certified copy of the copy thereof on file in the office of the secretary of state, by the secretary of state, shall be prima facie evidence of such incorporation and of the regularity thereof in all courts and places.

HISTORY: CL 1897, 2692;—Am. 1901, p. 53, Act 33, Eff. Sept. 5;—CL 1915, 2563;—CL 1929, 1473;—CL 1948, 61.9.

61.10 Election notices; polls, hours open.

Sec. 10. The inspectors so appointed shall give notice of the time and place of holding such election, and the officers to be elected at such election, by posting up written or printed notices thereof in at least 5 public places in such territory, at least 3 weeks previous to the day appointed for holding the same, or by publishing the same in some newspaper printed in such territory for 3 successive weeks immediately preceding the time aforesaid. At such election the polls shall be opened at 7 o'clock in the forenoon, and shall close at 5 o'clock in the afternoon.

HISTORY: CL 1897, 2693;—CL 1915, 2564;—CL 1929, 1474;—CL 1948, 61.10.

61.11 Voting qualifications.

Sec. 11. Every elector residing in such territory, and qualified to vote for township officers in the township in which such territory or some part thereof may be situate, may vote at all elections in said village, and all the laws of this state in relation to the election of township officers, canvass of votes, certifying the election of officers, and notifying them of their election, shall apply to such first election of officers in such village, so far as the same may be applicable and not inconsistent with the provisions of this act.

HISTORY: CL 1897, 2694;—CL 1915, 2565;—CL 1929, 1475;—CL 1948, 61.11.

61.12 Villages incorporated; bodies politic; powers.

Sec. 12. All villages hereafter incorporated shall be bodies politic and corporate under and by the corporate name assumed by or designated for them as hereinbefore

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provided, and by such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the purposes for which they were incorporated, have a common seal, and change the same at pleasure, and exercise all the powers in this act conferred.

HISTORY: CL 1897, 2695;—CL 1915, 2566;—CL 1929, 1476;—CL 1948, 61.12.

61.14 Board of registration; duties, session periods, notice; per diem.

Sec. 14. After the first election the clerk and 2 of the trustees, to be appointed each year by the council, shall be the village board of registration. On the Saturday previous to the day of holding any annual or special election, and on any other days that the council may appoint, the board shall be in session from 9 o'clock in the morning until 8 o'clock in the afternoon, for the purpose of completing the registration of the electors of the village; and in case of the absence of said clerk, or of either of the trustees so appointed, those who shall be in attendance are authorized to appoint some competent person to fill the vacancy occasioned by such absence. Notice of the time and place of holding such meeting shall be given with the notice of said election. The members of the board of registration shall each receive 2 dollars per day as compensation.

HISTORY: CL 1897, 2697;—CL 1915, 2567;—CL 1929, 1477;—CL 1948, 61.14.

61.15 Registration.

Sec. 15. In making and completing any such registration, the board shall proceed in the same manner and conform to the same rules, as near as may be, as are provided by law for registering electors in townships.

HISTORY: CL 1897, 2698;—CL 1915, 2568;—CL 1929, 1478;—CL 1948, 61.15.

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CHAPTER II—OFFICERS.

62.1 Village officers; council.
62.2 Officers appointed by village president; manner.
62.3 Appointments; time.
62.4 Term of office.
62.5 Term of office; village trustees.
62.6 Appointive officers; term, oath, security.
62.7 Qualifications for office; void votes; oath.
62.8 Official bonds; deposit time.
62.9 Additional bonds; removal from office.

VACANCIES IN OFFICE

62.10 Resignations.
62.11 Office vacancies.
62.12 Office vacancies; declaration of council.
62.13 Office vacancies; filling; special elections, procedure; expenses.
62.14 Surety not exonerated.
62.15 Property delivered to successor; violation of provision, misdemeanor; procedure.

62.1 Village officers; council.

Sec. 1. In each village the following officers shall be elected, viz., a president, 6 trustees, 1 clerk, 1 treasurer, who shall be ex officio collector, and 1 assessor. The president and trustees shall constitute the village council.

HISTORY: CL 1897, 2699;—CL 1915, 2569;—CL 1929, 1479;—CL 1948, 62.1.

62.2 Officers appointed by village president; manner.

Sec. 2. The president shall, by and with the consent of the council, appoint a village marshal and a street commissioner and such other officers as shall be provided for by resolution or ordinance of the council and the council may from time to time provide by ordinance or resolution, for the appointment of such other officers whose election or appointment is not herein specifically provided for, as they shall deem necessary for the execution of the powers granted by this act and the powers and duties of such officers shall be prescribed by the council. In villages containing 500 inhabitants or less, the village president shall not be required to appoint a village marshal. The village marshal may also be appointed a street commissioner.

HISTORY: CL 1897, 2700;—CL 1915, 2570;—Am. 1925, p. 144, Act 105, Imd. Eff. April 30;—CL 1929, 1480;—CL 1948, 62.2.

62.3 Appointments; time.

Sec. 3. Appointments to office, excepting appointments to fill vacancies, shall be made on the second Monday in April in each year, unless a different time shall be prescribed in the ordinance or resolution creating the office; but appointments which, for any cause, shall not be made on that day, or on the day provided in the ordinance or resolution creating the office, may be made at any subsequent regular or special meeting of the council.

HISTORY: CL 1897, 2701;—CL 1915, 2571;—CL 1929, 1481;—CL 1948, 62.3.

62.4 Term of office.

Sec. 4. The president, clerk, treasurer and assessor shall hold their respective offices for the term of 1 year from the second Monday of March of the year when elected and until their successors are elected and qualified and enter upon the duties of their offices.

HISTORY: CL 1897, 2702;—CL 1915, 2572;—Am. 1925, p. 144, Act 105, Imd. Eff. April 30;—CL 1929, 1482;—CL 1948, 62.4

62.5 Term of office; village trustees.

Sec. 5. The trustees shall hold their offices for the term of 2 years from the second Monday in March of the year when elected, and until their successors are qualified and enter upon the duties of their offices; except that at the first election held in any village incorporated, subject to the provisions of this act, 6 trustees shall be elected, 3 for the term of 1 year, and 3 for the term of 2 years, from the second Monday of March in the year when elected, and annually thereafter 3 trustees shall be elected for the term of 2 years.

HISTORY: CL 1897, 2703;—CL 1915, 2573;—CL 1929, 1483;—CL 1948, 62.5.

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62.6 Appointive officers; term, oath, security.

Sec. 6. All appointive officers, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the second Monday of April next after such appointment, and until their successors are qualified and enter upon the duties of their offices, unless a different term of office shall be prescribed in this act, or in the ordinance or resolution creating the office. Officers appointed to fill vacancies shall hold their office until the next annual election, and until their successors are elected or appointed and qualified. All persons elected or appointed to office shall enter upon the duties thereof, upon taking the oath of office and filing the requisite security, if any is required of them.

HISTORY: CL 1897, 2704;—CL 1915, 2574;—CL 1929, 1484;—CL 1948, 62.6.

62.7 Qualifications for office; void votes; oath.

Sec. 7. No person shall be elected or appointed to any office unless he shall be an elector of the village. And no person shall be elected or appointed to any office in the village who has been or is a defaulter to the village or to any board of officers thereof, or to any school district, county, or other municipal corporation of the state. All votes for or any appointment of any such defaulter shall be void. All officers of the village, elected or appointed, shall take and subscribe the oath of office prescribed by the constitution of the state, and file the same with the clerk, and in case of failure to do so, within 10 days after receiving notice of their election or appointment, shall be deemed to have declined the office.

HISTORY: CL 1897, 2705;—CL 1915, 2575;—CL 1929, 1485;—CL 1948, 62.7.

62.8 Official bonds; deposit time.

Sec. 8. Every officer elected or appointed in the village, before entering upon the duties of his office, and within the time prescribed for filing his official oath, shall file with the village clerk such bond or security as may be required by law, or by any ordinance or resolution of the council, and with such sureties as shall be approved by the council, conditioned for the due performance of the duties of his office, except that the bond or security given by the clerk shall be deposited with the treasurer.

HISTORY: CL 1897, 2706;—CL 1915, 2576;—CL 1929, 1486;—CL 1948, 62.8.

62.9 Additional bonds; removal from office.

Sec. 9. The council may, at any time, require any officer to execute and file with the clerk additional or new official bonds, with such new or further sureties as said council shall deem requisite for the interest of the corporation. Any failure to comply with such requirement within 15 days shall subject the officer to immediate removal from office by the council.

HISTORY: CL 1897, 2707;—CL 1915, 2577;—CL 1929, 1487;—CL 1948, 62.9.

VACANCIES IN OFFICE.

62.10 Resignations.

Sec. 10. Resignations of officers shall be made to the council.

HISTORY: CL 1897, 2708;—CL 1915, 2578;—CL 1929, 1488;—CL 1948, 62.10.

62.11 Office vacancies.

Sec. 11. If any officer shall cease to be a resident of the village during his term of office, the office shall be thereby vacated. If any officer shall be a defaulter, the office shall thereby be vacated.

HISTORY: CL 1897, 2709;—CL 1915, 2579;—CL 1929, 1489;—CL 1948, 62.11.

62.12 Office vacancies; declaration of council.

Sec. 12. If any person elected or appointed to office shall fail to take and file the oath of office, or shall fail to give the bond or security required for the due perform-

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ance of the duties of his office, within the time herein limited therefor, the council may declare the office vacant, unless previously thereto he shall file the oath and give the requisite bond or security.

HISTORY: CL 1897, 2710;—CL 1915, 2580;—CL 1929, 1490;—CL 1948, 62.12.

62.13 Office vacancies; filling; special elections, procedure; expenses.

Sec. 13. Any vacancy occurring in the office of president, trustees or any other elective office shall be filled by appointment by the council, and such appointee shall hold his office until the next annual election thereafter. All vacancies in any other office shall be filled by the president, by and with the consent of the council. In any case where by reason of removal, death, resignation or otherwise, the membership of the council shall be reduced to less than the quorum of 4, the remaining trustees shall forthwith call a special election for the purpose of filling all vacancies in the office of trustee, if a petition therefor signed by not less than 10 per cent of the qualified voters of said village is filed with the village clerk within 10 days after such vacancy or vacancies occur; if no such petition be filed within the time stated, then the remaining members of the council may either call such special election, or may proceed to appoint a sufficient number of trustees to constitute with those in office a quorum of the council, who shall then fill the remaining vacancies as herein first provided: Provided, That in any case where all the officers and trustees of any village heretofore incorporated under any general or local act shall have died or removed from such village, and no successors have been elected or appointed to fill the vacancies created thereby, it shall be the duty of the township clerk of the township within which such village is situated, upon petition of 10 per centum of the qualified voters residing in such village, to call a special election for the election of the officers and trustees of such village at a date and place to be fixed by such township clerk, which date shall be not more than 30 days after the receipt of such petition. The township board of such township shall perform all of the other duties with respect to such election as the village council might have done had such vacancies not existed, including the preparation of ballots, the appointment of election inspectors, the counting and canvassing of the ballots, and the certification of the persons elected to the offices for which the election was held. All of the expenses of such election shall be a charge upon the village.

HISTORY: CL 1897, 2711;—CL 1915, 2581;—Am. 1921, p. 15, Act 10, Eff. Aug. 18;—CL 1929, 1491;—CL 1948, 62.13.

VACANCIES: See Sec. 5 of Act 199 of 1923, being Compilers' § 201.35.

62.14 Surety not exonerated.

Sec. 14. The resignation or removal of any officer shall not, nor shall the appointment or election of another to the office, exonerate such officer or his sureties from any liability incurred by him or them.

HISTORY: CL 1897, 2712;—CL 1915, 2582;—CL 1929, 1492;—CL 1948, 62.14.

62.15 Property delivered to successor; violation of provision, misdemeanor; procedure.

Sec. 15. Whenever any officer shall resign or be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor in office, all the books, papers, moneys, and effects in his custody as such officer, and in any way appertaining to his office; and every person wilfully violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as public officers generally for the like offense under the general laws of this state, now or hereafter in force and applicable thereto; and every officer appointed or elected shall be deemed an officer within the meaning and provisions of such general laws of the state.

HISTORY: CL 1897, 2713;—CL 1915, 2583;—CL 1929, 1493;—CL 1948, 62.15.

MISDEMEANOR: Penalty for, see Compilers' § 750.504.

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CHAPTER III—ELECTIONS.

63.1 Annual election.
63.2 Special election.
63.3 Election inspectors; duties, per diem.
63.4 Election notices; contents.
63.5 Board of election commissioners; appointment, duties; ballot-boxes.
63.6 Opening and closing polls.
63.7 Conduct of election; placing of term on ballot.
63.8 Public canvass; results, certified statement; records, deposit.
63.9 Result of election; determination; filing of clerk's certificate.
63.10 Election tie; determination.
63.11 Elected persons; notification.
63.12 Oath or bond; failure to file, report.
63.13 Division of village into precincts.

63.1 Annual election.

Sec. 1. After the first election an annual election of officers shall be held on the second Monday in March in each year, at such place in the village as the council shall designate.

HISTORY: CL 1897, 2714;—CL 1915, 2584;—CL 1929, 1494;—CL 1948, 63.1.

63.2 Special election.

Sec. 2. Special elections may be appointed by resolution of the council, and held at such times as they shall determine, the purpose and object of which shall be fully set forth in the resolution appointing such election.

HISTORY: CL 1897, 2715;—CL 1915, 2585;—CL 1929, 1495;—CL 1948, 63.2.

63.3 Election inspectors; duties, per diem.

Sec. 3. The president and clerk and 2 of the trustees, or any 4 of the trustees, to be appointed by the council, shall be the inspectors of election. The president, when present shall be chairman of the board of election inspectors, and the clerk, if present, shall act as clerk of the election, and the inspectors shall appoint 1 of their number to act as second clerk. In case 4 of the inspectors do not attend at the opening of the polls, or shall not remain in attendance, such vacancy shall be filled as provided by the general election laws of the state, and in case either the president or clerk or both of them are absent the inspectors shall dessignate [designate] from their number a chairman and a clerk. Each inspector of election shall receive as compensation 2 dollars per day.

HISTORY: CL 1897, 2716;—CL 1915, 2586;—CL 1929, 1496;—CL 1948, 63.3.

63.4 Election notices; contents.

Sec. 4. Notice of the time and place of holding any election, and of the officers to be elected, and the questions to be voted upon, shall, except as herein otherwise provided, be given by the clerk, at least 8 days before such election, by posting such notices in 3 public places in the village, and by publishing a copy thereof in a newspaper in the village, if any is published therein, the same length of time before the election; and in case of a special election, the notice shall set forth the purpose and object of the election as fully as the same are required to be set forth in the resolution appointing such election.

HISTORY: CL 1897, 2717;—CL 1915, 2587;—CL 1929, 1497;—CL 1948, 63.4.

63.5 Board of election commissioners; appointment, duties; ballot-boxes.

Sec. 5. The council shall, at least 10 days previous to any election, appoint a board of 3 election commissioners, not more than 2 of whom shall belong to the same political party, who shall be the board of election commissioners for such village for such election, and they shall perform such duties relative to the preparation and printing of

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ballots as are required by law of the boards of election commissioners of counties. The council shall also provide and cause to be kept by the clerk, for use at all elections, suitable ballot-boxes of the kind required by law to be kept and used in townships.

HISTORY: CL 1897, 2718;—CL 1915, 2588;—CL 1929, 1498;—CL 1948, 63.5.

63.6 Opening and closing polls.

Sec. 6. On the day of elections, the polls shall be opened at 7 o'clock in the morning, or as soon thereafter as may be, and shall be kept open until 5 o'clock in the afternoon, at which hour they shall be finally closed. The inspectors shall cause proclamation to be made upon opening the polls, and shall also cause proclamation to be made of the closing of the polls, 1 hour, 30 minutes, and 15 minutes respectively, before the closing thereof.

HISTORY: CL 1897, 2719;—CL 1915, 2589;—CL 1929, 1499;—CL 1948, 63.6.

63.7 Conduct of election; placing of term on ballot.

Sec. 7. All elections in said village shall be conducted as nearly as may be in the manner provided by law for holding general elections in the state, except as herein otherwise provided; and the inspectors of such election shall have the same powers and authority for the preservation of order, and for enforcing obedience to their lawful commands during the time of holding the election and the canvass of the votes, as are conferred by law upon inspectors of general elections held in this state. If at any election vacancies are to be filled, or if any person is to be elected for less than a full term of office, the term shall be dessignated [designated] on the ballot.

HISTORY: CL 1897, 2720;—CL 1915, 2590;—CL 1929, 1500;—CL 1948, 63.7.

63.8 Public canvass; results, certified statement; records, deposit.

Sec. 8. Immediately after closing the polls, the inspectors of election shall, without adjourning publicly canvass the votes received by them, and declare the results, and shall on the same day or the next day make a statement in writing, setting forth in words at full length, the whole number of votes given for each office, the names of the persons for whom such votes for each office were given, and the number of votes so given for each person and the whole number of votes given upon each question voted upon, and the number of votes for and against the same, which statement shall be certified under the hands of the inspectors to be correct, and they shall deposit such statement and certificate on the day of election, or on the next day, together with said poll lists, and the register of electors, and the boxes containing said ballots in the office of the village clerk. The manner of canvassing said votes shall be the same as prescribed by law for canvassing votes at general elections held in this state, and the inspectors shall in all other respects, except as herein otherwise provided, conform as nearly as may be to the duties required of inspectors of election at general elections.

HISTORY: CL 1897, 2721;—CL 1915, 2591;—CL 1929, 1501;—CL 1948, 63.8.

63.9 Result of election; determination; filing of clerk's certificate.

Sec. 9. The council shall convene on Thursday next succeeding each election, at their usual place of meeting, and determine the result of the election upon each question and proposition voted upon, and what persons were duly elected at the said election to the several offices respectively; and thereupon the clerk shall make duplicate certificates of such determination, showing the result of the election upon any question or proposition voted upon, and what persons are declared elected to the several offices respectively; 1 of which certificates he shall file in the office of the county clerk of the county in which the village is located, and the other shall be filed in the office of the village clerk.

HISTORY: CL 1897, 2722;—CL 1915, 2592;—CL 1929, 1502;—CL 1948, 63.9.

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63.10 Election tie; determination.

Sec. 10. If there shall be no choice for any office by reason of 2 or more candidates having received an equal number of votes, the council shall at the meeting mentioned in the preceding section, determine by lot between such persons which shall be considered elected to such office.

HISTORY: CL 1897, 2723;—CL 1915, 2593;—CL 1929, 1503;—CL 1948, 63.10.

63.11 Elected persons; notification.

Sec. 11. It shall be the duty of the clerk, within 5 days after the meeting and determination of the council, as provided in this chapter, to notify each person elected, in writing, of his election; and he shall also, within 5 days after the appointment of any person to any office, in like manner notify such person of the appointment.

HISTORY: CL 1897, 2724;—CL 1915, 2594;—CL 1929, 1504;—CL 1948, 63.11.

63.12 Oath or bond; failure to file, report.

Sec. 12. Within 1 week after the expiration of the time in which any official bond or oath of office is required to be filed, the clerk shall report in writing to the council the names of all persons elected or appointed to any office, who shall have neglected to file such oath or bond.

HISTORY: CL 1897, 2725;—CL 1915, 2595;—CL 1929, 1505;—CL 1948, 63.12.

63.13 Division of village into precincts.

Sec. 13. The council of any village having more than 650 electors according to the poll list of the last preceding election, may cause such village to be divided into 2 or more voting precincts, and the manner of making such division, the registration, and holding of elections and of canvassing the votes, and all other matters pertaining to the division of villages into voting precincts, and of the holding of elections therein shall be governed by the general laws of the state relating thereto.

HISTORY: CL 1897, 2726;—CL 1915, 2596;—CL 1929, 1506;—CL 1948, 63.13.

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CHAPTER IV—DUTIES OF OFFICERS—PRESIDENT.

PRESIDENT
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64.18 Street commissioner; duties.
64.19 Street commissioner; reports to council; contents.

ASSESSOR
64.20 Assessor; duties.

COMPENSATION
64.21 Village officers; compensation.

64.1 Village president; duties.

Sec. 1. The president shall be the chief executive officer of the village. He shall preside at the meetings of the council. He shall be deemed a member of the council, but he shall have no right to vote upon any question except in case of a tie, in which case he shall give the deciding vote. He shall from time to time give the council information concerning the affairs of the corporation, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the affairs of the village and over the public property belonging thereto, see that the laws relating to the village and the ordinances and regulations of the council are enforced.

HISTORY: CL 1897, 2727;—CL 1915, 2597;—CL 1929, 1507;—CL 1948, 64.1.

64.2 Village president; duties as conservator of peace.

Sec. 2. The president shall be a conservator of the peace, and may exercise within the village the powers conferred upon sheriffs to suppress disorder; and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the council, and to suppress riot and disorderly conduct.

HISTORY: CL 1897, 2728;—CL 1915, 2598;—CL 1929, 1508;—CL 1948, 64.2.

64.3 Village president; power of removal; inspection of offices.

Sec. 3. The president may remove any officer appointed by him at any time when he shall deem it for the public interest and may suspend any policeman for neglect of duty. He shall have authority at all times to examine and inspect the books, records, and papers of any agent, employe, or officer of the corporation, and shall perform generally all such duties as are or may be prescribed by the ordinances of the village.

HISTORY: CL 1897, 2729;—CL 1915, 2599;—CL 1929, 1509;—CL 1948, 64.3.

64.4 Acting president.

Sec. 4. In the absence or disability of the president, the president pro tempore of the council shall perform the duties of the president.

HISTORY: CL 1897, 2730;—CL 1915, 2600;—CL 1929, 1510;—CL 1948, 64.4.

CLERK.

64.5 Duties; temporary clerk.

Sec. 5. The clerk shall keep the corporate seal and all the documents, official bonds, papers, files and records of the village, not by this act or the ordinances of the village

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entrusted to some other officer; he shall be clerk of the council, and shall attend its meetings. In case of the absence of the clerk, or if from any cause he shall be unable to discharge, or be disqualified from performing the duties required of him, then the council may appoint 1 of their own number, or some other person, to perform the duties of the clerk for the time being. The clerk shall record all the proceedings and resolutions of the council, and shall record, or cause to be recorded, all the ordinances of the village. He shall countersign and register all licenses granted; he shall, when required, make and certify, under the seal of the village, copies of the papers and records filed and kept in his office; and such copies shall be evidence in all places of the matters therein contained, to the same extent as the original would be. He shall possess and exercise the powers of the township clerk so far as the same are required to be performed within the village, except as to the filing of chattel mortgages; and he shall have authority to administer oaths and affirmations.

HISTORY: CL 1897, 2731;—CL 1915, 2601;—CL 1929, 1511;—CL 1948, 64.5.

PUBLIC UTILITIES: See Act 69 of 1929, being Compilers' §§ 460.501 to 460.506.

64.6 Duties; general accountant; tax reports.

Sec. 6. The clerk shall be the general accountant of the village; and all claims against the corporation shall be filed with him for adjustment. After examination thereof, he shall report the same, with all accompanying vouchers and counter-claims of the village, and the true balance as found by him, to the council for allowance, and when allowed shall draw his warrant upon the treasurer for the payment thereof, designating thereon the fund from which payment is to be made, and take proper receipts therefor; but no warrant shall be drawn upon any fund after the same has been exhausted. When any tax or money shall be levied, raised, or appropriated, the clerk shall report the amount thereof to the village treasurer, stating the objects and funds for which it is levied, raised, or appropriated, and the amounts thereof to be credited to each fund.

HISTORY: CL 1897, 2732;—CL 1915, 2602;—CL 1929, 1512;—CL 1948, 64.6.

64.7 Duties; accounts, manner; bonds.

Sec. 7. The clerk shall have charge of all the books, vouchers, and documents relating to the accounts, contracts, debts, and revenues of the corporation; he shall countersign and register all bonds issued, and keep a list of all property and effects belonging to the village, and of all its debts and liabilities; he shall keep a complete set of books, exhibiting the financial condition of the corporation in all its departments, funds, resources, and liabilities, with a proper classification thereof, and showing the purpose for which each fund was raised; he shall also keep an account with the treasurer, in which he shall charge him with all the moneys received for each of the several funds of the village, and credit him with all warrants drawn thereon, keeping an account with each fund.

HISTORY: CL 1897, 2733;—CL 1915, 2603;—CL 1929, 1513;—CL 1948, 64.7.

64.8 Duties; financial report to council; contents.

Sec. 8. The clerk shall report to the council, whenever required, a detailed statement of the receipts, expenditures, and financial condition of the village, of the debts to be paid, and moneys necessary to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the council may require.

HISTORY: CL 1897, 2734;—CL 1915, 2604;—CL 1929, 1514;—CL 1948, 64.8.

TREASURER.

64.9 Village treasurer; duties.

Sec. 9. The treasurer shall have the custody of all moneys, bonds other than official, mortgages, notes, leases, and evidences of value belonging to the village; he shall re-

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ceive all moneys belonging to, and receivable by the corporation, and keep an account of all receipts and expenditures thereof; he shall pay no money out of the treasury, except in pursuance of, and by authority of law, and upon warrants signed by the clerk and president, which shall specify the purpose for which the amounts thereof are to be paid; he shall collect and keep an account of and be charged with all taxes and moneys appropriated, raised, or received for each fund of the corporation, and shall keep a separate account of each fund, and shall credit thereto all moneys raised, paid in, or appropriated therefor, and shall pay every warrant out of the particular fund raised for the purpose for which the warrant was issued.

HISTORY: CL 1897, 2735;—CL 1915, 2605;—CL 1929, 1515;—Am. 1935, p. 326, Act 199, Eff. Sept. 21;—CL 1948, 64.9.

See Compilers' § 69.24.

64.10 Treasurer; reports, contents.

Sec. 10. The treasurer shall render to the clerk on the first Monday of every month, if required, a report of the amounts received and credited by him to each fund, and on what account received, and the amounts paid out by him from each fund during the preceding month, and the amount of money remaining in each fund on the day of his report. He shall also exhibit to the council annually on the first Monday in March, and as often and for such period as the council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of his last annual report, classifying them therein by the funds to which such receipts are credited and out of which such disbursements are made, and the balance remaining in each fund; which account shall be filed in the office of the clerk, and shall be published in 1 of the newspapers of the village if any be published therein.

HISTORY: CL 1897, 2736;—CL 1915, 2606;—CL 1929, 1516;—CL 1948, 64.10.

64.11 Treasurer; vouchers.

Sec. 11. Said treasurer shall take vouchers for all money paid from the treasury, showing the amount and fund from which payment was made, which vouchers upon settlement with the proper officers of the village shall be surrendered and filed with the clerk.

HISTORY: CL 1897, 2737;—CL 1915, 2607;—CL 1929, 1517;—CL 1948, 64.11.

64.12 Treasurer; handling of moneys, private use, forfeiture.

Sec. 12. The treasurer shall keep all moneys in his hands belonging to the village separate and distinct from his own moneys, and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt in his custody or keeping, for his own use or benefit, or that of any other person; any violation of the provisions of this section shall work a forfeiture of his office, and the council, on proof of the fact, are authorized to declare the office vacant and appoint his successor for the remainder of his term.

HISTORY: CL 1897, 2738;—CL 1915, 2608;—CL 1929, 1518;—CL 1948, 64.12.

As to safe keeping of public moneys, see Compilers' § 750.490. Village depositaries, Act 321 of 1909, being Compilers' § 129.41.

MARSHAL.

64.13 Marshal; police duties, process serving.

Sec. 13. The marshal shall be the chief of the police of the village. As police officer he shall be subject to the direction of the president and council. It shall be his duty to see that all the ordinances and regulations of the council, made for the preservation of quiet, good order, and for the safety and protection of the inhabitants of the village, are promptly enforced. As peace officer he shall, within said village, be vested with all

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the powers conferred upon sheriffs for the preservation of quiet and good order. He shall have power to serve and execute all process directed or delivered to him, in all proceedings for violations of the ordinances of the village. Such process may be served anywhere within the county in which said village is located.

HISTORY: CL 1897, 2739;—CL 1915, 2610;—CL 1929, 1519;—CL 1948, 64.13.

64.14 Marshal; records.

Sec. 14. The marshal shall keep a record of all arrests and the cause thereof, and shall enter therein, within 24 hours after any person shall be arrested, the name of the person so arrested, the cause of the arrest, the age and nationality of the person arrested, and if discharged without being taken before a court, the reason for such discharge, which record shall be the property of the village.

HISTORY: CL 1897, 2740;—CL 1915, 2611;—CL 1929, 1520;—CL 1948, 64.14.

64.15 Marshal; reports to council, contents.

Sec. 15. The marshal shall report in writing and on oath to the council at their first meeting in each month, all arrests made by him and the cause thereof, and all persons discharged from arrest during the month; also the number remaining in confinement for breaches of the ordinances of the village; the amount of all fines and fees collected by him. All moneys collected or received by the marshal, unless otherwise directed by this act, shall be paid into the village treasury during the same week when received, and the treasurers' receipt therefor shall be filed with the clerk.

HISTORY: CL 1897, 2741;—CL 1915, 2612;—CL 1929, 1521;—CL 1948, 64.15.

64.16 Marshal; fees.

Sec. 16. The marshal may collect and receive the same fees for services performed by him as are allowed to constables for like services.

HISTORY: CL 1897, 2742;—CL 1915, 2613;—CL 1929, 1522;—CL 1948, 64.16.

SURVEYOR.

64.17 Surveyor; powers, duties.

Sec. 17. The village surveyor, if one is appointed, shall have and exercise within the village, the like powers and duties as are conferred by law upon county surveyors; and the like effect and validity shall be given to his official acts, surveys, and plats as are given by law to the acts and surveys of county surveyors. He shall make all necessary plats, maps, surveys, diagrams, and estimates required by the council or officers of the village, relating to the public improvements, buildings, grounds, and streets of the village; and all plats, maps, surveys, and diagrams made by him as such surveyor shall be the property of the village, and shall at the expiration of his term of office be delivered by him to his successor in office.

HISTORY: CL 1897, 2743;—CL 1915, 2614;—CL 1929, 1523;—CL 1948, 64.17.

COUNTY SURVEYOR: See Compilers' § 54.95 et seq.

STREET COMMISSIONER.

64.18 Street commissioner; duties.

Sec. 18. It shall be the duty of the street commissioner to perform, or cause to be performed, all such labor, repairs, and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds, and parks within the village, as the council shall direct to be done by or under his supervision; and to oversee and do whatever may be required of him in relation thereto by the council.

HISTORY: CL 1897, 2744;—CL 1915, 2615;—CL 1929, 1524;—CL 1948, 64.18.

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64.19 Street commissioner; reports to council; contents.

Sec. 19. He shall make a report to the council, in writing and on oath, once in each month, giving an exact statement of all labor performed by him, or under his supervision, and the charges therefor; the amount of material used, and the expense thereof, and the street or place where such material was used, or labor performed; and further showing the items and purpose of all expenses incurred since his last preceding report.

HISTORY: CL 1897, 2745;—CL 1915, 2616;—CL 1929, 1525;—CL 1948, 64.19.

ASSESSOR.

64.20 Assessor; duties.

Sec. 20. The assessor shall perform such duties in relation to assessing property and levying taxes in the village as are prescribed by this act.

HISTORY: CL 1897, 2746;—CL 1915, 2617;—CL 1929, 1526;—CL 1948, 64.20.

COMPENSATION.

64.21 Village officers; compensation.

Sec. 21. The president and trustees shall each receive such sum as shall be fixed by ordinance for each regular meeting of the village council by them respectively attended during their term of office, such payment to be made out of the general fund in the village treasury. Said officers shall receive no other compensation for services performed for and on behalf of said village during their term of office: Provided, That in no case shall such president or any trustee receive compensation for any meetings not actually attended. All other officers except where other provision is made herein or by law regulating fees for services shall receive such compensation as the council shall prescribe.

HISTORY: CL 1897, 2747;—CL 1915, 2618;—Am. 1917, p. 80, Act 51, Eff. Aug. 10;—CL 1929, 1527;—CL 1948, 64.21;—Am. 1954, p. 378, Act 160, Eff. Aug. 13.

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CHAPTER V—VILLAGE COUNCIL.

65.1 Legislative authority vested in village council.
65.2 Village council; president.
65.3 Village council; president pro tem.
65.4 Village council; regular meetings; special meetings, notice.
65.5 Village council; open meetings; proceedings, record, publication; vote.
65.6 Repealed.
65.7 Village council; audit of accounts, prerequisites; defenses to suit.

65.1 Legislative authority vested in village council.

Sec. 1. The legislative authority of villages shall be vested in a council consisting of the president and trustees.

HISTORY: CL 1897, 2748;—CL 1915, 2619;—CL 1929, 1528;—CL 1948, 65.1.

65.2 Village council; president.

Sec. 2. The president shall be president of the council, and preside at the meetings thereof.

HISTORY: CL 1897, 2749;—CL 1915, 2620;—CL 1929, 1529;—CL 1948, 65.2.

65.3 Village council; president pro tem.

Sec. 3. On the second Monday in April in each year, or as soon thereafter as may be, the council shall appoint 1 of their number president pro tempore of the council, who in the absence of the president shall preside at the meetings thereof, and exercise the powers and duties of president. In the absence of the president and president pro tem., the council shall appoint 1 of their number to preside.

HISTORY: CL 1897, 2750;—CL 1915, 2621;—CL 1929, 1530;—CL 1948, 65.3.

65.4 Village council; regular meetings; special meetings, notice.

Sec. 4. The council shall hold regular stated meetings for the transaction of business, at such times as it shall prescribe, not less than 1 of which shall be held in each month. The president or any 3 members of the council may appoint special meetings thereof, notice of which, in writing shall be given to each trustee, or be left at his place of residence at least 6 hours before the meeting: Provided, That if all the members of the council shall be present at any special meeting without proper notice, such notice shall be deemed to have been waived.

HISTORY: CL 1897, 2751;—CL 1915, 2622;—CL 1929, 1531;—CL 1948, 65.4.

65.5 Village council; open meetings; proceedings, record, publication; vote.

Sec. 5. The council shall prescribe the rules of its own proceedings, and shall keep a record thereof. All meetings and sessions of the council shall be public. A majority of the trustees shall be a quorum for the transaction of business; a less number may adjourn from time to time and compel the attendance of absent members in such manner as shall be prescribed by ordinance. But no office shall be created or abolished nor any tax or assessment be imposed; street, alley or public ground be vacated, real estate or any interest therein purchased, leased, sold, or disposed of, or any public improvement ordered, unless by a concurring vote of 2/3 of all the trustees elect, which vote shall be taken by yeas and nays, and entered upon the journal; no money shall be appropriated except by ordinance or resolution of the council, nor shall any such ordinance be passed, nor any resolution appropriating money be adopted, except by a concurring yea and nay vote of 2/3 of all the trustees elect. Within 15 days after any meeting of the council, all the proceedings had or taken at such meeting, together with the vote of the various members of the board of trustees shall be published in a newspaper published in said village, if there be one therein.

HISTORY: CL 1897, 2752;—CL 1915, 2623;—Am. 1925, p. 52, Act 43, Eff. Aug. 27;—CL 1929, 1532;—CL 1948, 65.5.

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65.6 Repealed. 1968, p. 558, Act 317, Eff. Sep. 1.

Section related to village council members' conflict of interest, forfeiture of office.

65.7 Village council; audit of accounts, prerequisites; defenses to suit.

Sec. 7. The council shall audit and allow all accounts chargeable against the village; but no account or claim or contract shall be received for audit or allowance, unless it shall be accompanied with a certificate of an officer of the corporation, or an affidavit of the person rendering it, to the effect that he verily believes that the services therein charged have been actually performed or the property delivered for the village, that the sums charged therefor are reasonable and just, and that to the best of his knowledge and belief, no set-off exists, nor payment has been made on account thereof, except such as are endorsed or referred to in such account or claim. And every such account shall exhibit in detail all the items making up the amount claimed, and the true date of each. It shall be a sufficient defense in any court, to any action or proceeding for the collection of any demand or claim against the village for personal injuries or otherwise that it has never been presented, certified to or verified as aforesaid, to the council for allowance; or, if such claim is founded on contract, that the same was presented without the certificate or affidavit aforesaid and rejected for that reason; or, that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it.

HISTORY: CL 1897, 2754;—CL 1915, 2625;—CL 1929, 1534;—CL 1948, 65.7.

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CHAPTER VI—ORDINANCES.

66.1 Style of ordinances.
66.2 Fines and penalties.
66.3 Record of ordinances.
66.4 Publication; certificate, evidence; plumbing, electrical or building code, adoption without publication in full; statement.
66.5 Laws, regulations or ordinances; proof in court.
66.6 Violation of ordinances; prosecution.
66.7 Violation of ordinances; penalties; recovery; warrant; proceedings.
66.8 Use of county jail; expenses.
66.9 Sufficient statement of cause; jury trial, procedure; inhabitants as jurors.
66.10 Appeals to circuit court; proceedings.
66.11 Village prison.
66.12 Security for costs; filing by prosecutor, liability.
66.13 Fines; payment, treasurer's receipt, filing.
66.14 Suit against collector; failure to pay over fines, misdemeanor.

66.1 Style of ordinances.

Sec. 1. The style of all ordinances shall be: "The village of ..... ordains." All ordinances except as herein otherwise provided shall require, for their passage, the concurrence of a majority of the council. No ordinance imposing a penalty shall take effect in less than 20 days after its passage.

HISTORY: CL 1897, 2755;—CL 1915, 2626;—CL 1929, 1535;—CL 1948, 66.1.

66.2 Fines and penalties.

Sec. 2. When by the provisions of this act the council of any village has authority to pass ordinances for any purpose, they may prescribe fines, penalties and forfeitures not exceeding 100 dollars, unless a greater fine or penalty is herein authorized, or imprisonment not exceeding 90 days or both, in the discretion of the court, together with the costs of the prosecution, for each violation of any of said ordinances, and may provide that the offender on failing to pay such fine, penalty or forfeiture and the costs of prosecution, may be imprisoned for any time not exceeding 90 days, unless payment thereof be sooner made and also that the offender be kept at labor during such imprisonment.

Such fine, penalty or forfeiture and imprisonment for the violation of any ordinance, shall be prescribed in the ordinance, and if imprisonment be adjudged in any case, it may be in the village prison or in the county jail of the county in which the village is located, or in any other place of confinement provided by the village for such purpose, in the discretion of the court.

HISTORY: CL 1897, 2756;—CL 1915, 2627;—CL 1929, 1536;—CL 1948, 66.2.

66.3 Record of ordinances.

Sec. 3. All ordinances, when regularly enacted, shall be recorded by the clerk of the council, in a book to be called "the record of ordinances," and it shall be the duty of the president and clerk to authenticate the same by their official signatures upon such record.

HISTORY: CL 1897, 2757;—CL 1915, 2628;—CL 1929, 1537;—CL 1948, 66.3

66.4 Publication; certificate, evidence; plumbing, electrical or building code, adoption without publication in full; statement.

Sec. 4. Within 1 week after the passage of any ordinance, the same shall be published in a newspaper printed in the village, if any is published therein, otherwise copies of the ordinance shall, within the same time, be posted in 3 of the most public places in the village; and the clerk shall, immediately after such publication or posting, enter in the record of ordinances, in a blank space to be left for such purpose under the record of the ordinance, a certificate under his hand, stating the time and places of such publication or posting. Such certificate shall be prima facie evidence of the due publication and posting of the ordinance: Provided, however, That each village shall have power to adopt any plumbing code, electrical code or building code which has

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been promulgated by the state of Michigan or by any department, board or other agency thereof, or by any organization or association which is organized or conducted for the purpose of developing any such code or codes by reference thereto in an adopting ordinance and without publishing such code in full: Provided further, That such code is clearly identified in said ordinance and that a statement of the purpose of said code shall be published with the adopting ordinance and that printed copies of the code are kept in the office of the village clerk available for inspection by and distribution to the public at all times: Provided further, That the publication shall contain a notice to the effect that a complete copy of said code is available for public use and inspection at the office of the village clerk.

HISTORY: CL 1897, 2758;—CL 1915, 2629;—CL 1929, 1538;—CL 1948, 66.4;—Am. 1951, p. 354, Act 240, Eff. Sept. 28.

66.5 Laws, regulations or ordinances; proof in court.

Sec. 5. Whenever it shall be necessary to prove any of the laws, regulations, or ordinances of any village, or any resolution adopted by the council thereof, the same may be read in all courts of justice and in all proceedings:

First, From a record thereof kept by the clerk;

Second, From a copy of the ordinance, or of the record thereof, certified by the clerk under the corporate seal of the village;

Third, From any volume of ordinances purporting to have been written or printed by authority of the council.

HISTORY: CL 1897, 2759;—CL 1915, 2630;—CL 1929, 1539;—CL 1948, 66.5.

66.6 Violation of ordinances; prosecution.

Sec. 6. Prosecutions for violation of the ordinances shall be commenced within 2 years after the commission of the offense, and shall be brought within the village, or in the township in which the village, or some part thereof, is located. Any justice of the peace of the village or of the township in which the village or some part of it, is situated, shall have the authority to hear, try and determine all causes and suits arising under the ordinances of the village, and to inflict punishment for violations thereof as provided in the ordinances.

HISTORY: CL 1897, 2760;—CL 1915, 2631;—CL 1929, 1540;—CL 1948, 66.6.

66.7 Violation of ordinances; penalties; recovery; warrant; proceedings.

Sec. 7. Whenever a penalty shall be incurred for the violation of any ordinance, and no provision shall be made for the imprisonment of the offender upon conviction thereof, such penalty may be recovered in an action of debt or in assumpsit. And when a corporation shall incur a penalty for the violation of any such ordinance, the same shall be sued for in 1 of the actions aforesaid. Prosecutions for violations of the ordinances of the village may, in all cases except against corporations, be commenced by warrant for the arrest of the offender. Such warrant shall be in the name of the people of the state of Michigan, and shall set forth the substance of the offense complained of, and be substantially in the form and be issued upon complaint made, as provided by law in criminal cases cognizable by justices of the peace. And the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings and all proceedings upon the trial of the cause and in procuring the attendance and testimony of witnesses, and in the rendition of judgments and the execution thereof shall, except as otherwise provided by this act, be governed by and conform as nearly as may be, to the provisions of law regulating proceedings in criminal causes cognizable by justices of the peace.

HISTORY: CL 1897, 2761;—CL 1915, 2632;—CL 1929, 1541;—CL 1948, 66.7.

See Compilers' § 64.1.

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66.8 Use of county jail; expenses.

Sec. 8. Every village shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and the sheriff, or other keeper of such jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged. In all cases of imprisonment for breaches of the penal laws of this state, such receiving and keeping in such jail shall be at the expense of the county in which the village is located; in all other cases it shall be at the expense of the village.

HISTORY: CL 1897, 2762;—CL 1915, 2633;—CL 1929, 1542;—CL 1948, 66.8.

66.9 Sufficient statement of cause; jury trial, procedure; inhabitants as jurors.

Sec. 9. It shall not be necessary in any suit, proceeding, or prosecution for the violation of any ordinance, to state or set forth such ordinance, or any of the provisions thereof, in any complaint, warrant, process or pleading therein; but the same shall be deemed sufficiently set forth or stated by reciting its title and the date of its passage, adoption or approval.

And it shall be a sufficient statement of the cause of action in any such complaint or warrant, to set forth substantially, and with reasonable certainty, as to time and place, the act or offense complained of, and to allege the same to be in violation of an ordinance of the village, referring thereto by its title, and the date of its passage, adoption, or approval. In all prosecutions for violations of the ordinances of the village, either party may require a trial by jury.

Such jury, except when other provision is made, shall consist of 6 persons, and, in suits commenced by warrant, shall be selected and summoned as in criminal cases cognizable by justices of the peace, and, in suits commenced by summons, as in civil cases triable before such magistrate. No inhabitant of the village shall be incompetent to serve as a juror in any cause in which the village is a party or interested, on account merely of such interest as he may have, in common with the inhabitants of the village, in the results of the suit.

HISTORY: CL 1897, 2763;—CL 1915, 2634;—CL 1929, 1543;—CL 1948, 66.9.

66.10 Appeals to circuit court; proceedings.

Sec. 10. Any person convicted of a violation of any ordinance of the village in a suit commenced by warrant as aforesaid, may remove the judgment and proceedings into the circuit court for the county in which the village is located, by appeal or writ of certiorari, and the time for such appeal or removal, and the proceedings therefor, and the bond or security to be given thereon and the proceedings and disposition of the cause in the circuit court, shall be the same as on appeal and certiorari in criminal cases cognizable by justices of the peace; and in suits to which the village may be a party, brought to recover any penalty for such violation, either party may appeal from the judgment or remove the proceedings by certiorari into the circuit court, and the like proceedings shall be had therefor and thereon, and the like bond or security shall be given as in cases of appeal and certiorari in civil cases tried before justices of the peace, except that the village shall not be required to give any bond or security thereon.

HISTORY: CL 1897, 2764;—CL 1915, 2635;—CL 1929, 1544;—CL 1948, 66.10.

66.11 Village prison.

Sec. 11. The council shall have power to provide and maintain a village prison, and such watch or station houses as may be necessary, and may provide for the confinement therein of all persons liable to imprisonment or detention under the ordinances of the village, and for the employment of those imprisoned therein. All persons sen-

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tenced to confinement in such prison, and all persons imprisoned therein on execution for nonpayment of fines for violation of the ordinances of the village, may be kept at hard labor during the term of their imprisonment, either within or without the prison, under such regulations as the council may prescribe.

HISTORY: CL 1897, 2765;—CL 1915, 2636;—CL 1929, 1545;—CL 1948, 66.11.
PENAL INSTITUTIONS: In general, see Compilers' § 800.1 et seq.
COST OF PRISON: How defrayed, see Compilers' § 68.1.

66.12 Security for costs; filing by prosecutor, liability.

Sec. 12. In all prosecutions for violations of the ordinances of the village, commenced by any person other than an officer of the village, the court may require the prosecutor to file security for the payment of the costs of the proceedings, in case the defendant is acquitted. But he shall not be liable for the payment of the costs if the magistrate before whom the complaint is made or trial is had, shall certify in his minutes that there was probable cause for the making of such complaint.

HISTORY: CL 1897, 2766;—CL 1915, 2637;—CL 1929, 1546;—CL 1948, 66.12.

66.13 Fines; payment, treasurer's receipt, filing.

Sec. 13. All fines imposed for violations of the ordinances of the village, if paid before the accused is committed, shall be received by the court or magistrate before whom the conviction was had. If any fine shall be collected upon execution, the officer or person receiving the same shall immediately pay over the money collected to said court or magistrate. If the accused be committed, payment of the fine and costs imposed shall be made to the sheriff or other keeper of the jail or prison, who shall within 30 days thereafter, pay the same to said court or magistrate, and the court or magistrate receiving any such fine or penalty or any part thereof, shall pay the same into the village treasury except such fines as by the constitution, are appropriated for library purposes, on or before the first Monday of the month next after the receipt of the same and take the treasurer's receipt therefor, and file the same with the clerk.

HISTORY: CL 1897, 2767;—CL 1915, 2638;—CL 1929, 1547;—CL 1948, 66.13.

66.14 Suit against collector; failure to pay over fines, misdemeanor.

Sec. 14. If any person who shall have received any such fine or any part thereof, shall neglect to pay over the same pursuant to the foregoing provision, it shall be the duty of the council to cause suit to be commenced immediately therefor, in the name of the village and to prosecute the same to effect. Any person receiving any such fine, who shall wilfully neglect or refuse to pay over the same as required by the foregoing provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly.

HISTORY: CL 1897, 2768;—CL 1915, 2639;—CL 1929, 1548;—CL 1948, 66.14.
PUNISHMENT FOR MISDEMEANOR: See Compilers' § 750.504.

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CHAPTER VII—POWERS OF COUNCIL.

GENERAL

67.1 General powers of council.

LICENSES

67.2 Licenses; granting, conditions, revocation; penalty; support of poor.

POUNDS

67.3 Pounds, pound masters; regulations; fees, sale of animals.

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67.10 Sidewalks; failure of abutting owner; assessment, collection.
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67.63 Cemetery trustees; power to accept gifts, use.
67.64 Cemetery trustees; rules, by-laws; treasurer, duties, bond.

67.1 General powers of council.

Sec. 1. Every village subject to the provisions of this act, shall, in addition to such other powers as are conferred, have the general power and authority granted in this chapter, and the council may pass such ordinances in relation thereto as it may deem proper, namely:

First, To restrain and prevent vice and immorality;

Second, To punish vagrants, disorderly persons and common prostitutes;

Third, To abate nuisances and preserve the public health;

Fourth, To prohibit and suppress disorderly and gaming houses;

Fifth, To regulate, license, or suppress billiard tables and ball alleys, public dance-halls, and soft-drink emporiums;

Sixth, To suppress gaming;

Seventh, To suppress, or regulate, tax and license saloons for the sale of spirituous and intoxicating liquors, and license taverns and eating houses;

Eighth, To regulate and license public shows and exhibitions;

Ninth, To license auctioneers, license and regulate hawkers and peddlers, and to regulate or prohibit sales of property at auction, except sales made pursuant to some order of court or public law; and also to require transient traders and dealers to take out licenses before engaging in business, and may regulate by ordinance the terms and conditions of issuing the same;

Tenth, To license and regulate hacks and other public vehicles;

Eleventh, To provide for and regulate the inspection of provisions;

Twelfth, To provide for the inspection and sealing of weights and measures, and to enforce the keeping and use of proper weights and measures by venders;

Thirteenth, To regulate or prohibit bathing in the rivers, ponds, streams and waters of the village;

Fourteenth, To regulate or prohibit the selling, storing or transportation of combustible or explosive substances or materials within the village, and to regulate and restrain the making of fires in the streets or other open spaces in the village;

Fifteenth, To make ordinances for the organization and regulation of the fire department and for the prevention and extinguishment of fires, and to establish and maintain definite fire limits;

Sixteenth, To license and regulate solicitors for passengers or for baggage for any hotel, tavern, public house, boat, or railroad; also draymen, carmen, truckmen, porters, runners, drivers of cabs, hackney coaches, omnibuses, carriages, sleighs, express vehicles and vehicles of every other description used and employed for hire, and to fix and regulate the amounts and rates of their compensation;

Seventeenth, To require horses, mules, or other animals attached to any vehicle, or standing in any of the streets, lanes or alleys in the village, to be securely fastened, hitched, watched or held;

Eighteenth, To prevent and punish horse-racing and immoderate driving in any street, park or alley, and to authorize the stopping and detaining of any person who shall be guilty of immoderate driving or riding in any street, park or alley in the village;

Nineteenth, To prevent the running at large of dogs, to require them to be muzzled, and to authorize their destruction if found at large, in violation of any ordinance of the village;

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Twentieth, To establish lines and grades upon which buildings may be erected, and beyond which such buildings shall not extend;

Twenty-first, To prevent the erection and provide for the removal of all buildings deemed unsafe;

Twenty-second, To regulate the placing and provide for the preservation of horse or hitching posts;

Twenty-third, To declare and define the powers and duties of the officers of the village, whose powers and duties are not specifically prescribed in this act;

Twenty-fourth, To require the treasurer, marshal, and such other officers of the village as the council shall deem proper, to give bonds for the discharge of their official duties;

Twenty-fifth, To see that the several officers of the village perform their duties faithfully and that proper measures are taken to punish neglect of duty on the part of any of such officers;

Twenty-sixth, To provide for the care, custody and preservation of the public property of the village;

Twenty-seventh, To adopt such other ordinances and make such other regulations for the safety and good government of the village and the general welfare of its inhabitants as are not inconsistent with the general laws of this state.

HISTORY: CL 1897, 2769;—Am. 1915, p. 83, Act 57, Eff. Aug. 24;—CL 1915, 2640;—Am. 1921, p. 31, Act 21, Eff. Aug. 18;—CL 1929, 1549;—CL 1948, 67.1.

RESTRICTION: See Compilers' § 78.26.

MUNICIPAL IMPROVEMENTS: See Compilers' § 123.1 et seq. and Compilers' § 141.1 et seq.

LICENSES.

67.2 Licenses; granting, conditions, revocation; penalty; support of poor.

Sec. 2. The council may prescribe the terms and conditions upon which licenses may be granted, and may exact and require payment of such sum for any license as shall be reasonable and proper. The person receiving the license shall, if required by the council or ordinance of the village, before the issuing thereof, execute a bond to the corporation in such sum as the council may prescribe, with 1 or more sufficient sureties, conditioned for a faithful performance of the laws relating to the corporation and the ordinances of the council, and otherwise conditioned as the council may prescribe. Every license shall be revocable by the council at pleasure; and when any license shall be revoked for noncompliance with the terms and conditions upon which it was granted, or on account of any violation of any ordinance or regulation passed or authorized by the council, the person holding such license shall, in addition to all other penalties imposed, forfeit all payment made for such license. And the council may provide for punishment, by fine or imprisonment, or both, of any person who, without license, shall exercise any occupation or trade, or do anything for or in respect to which any license shall be required by any ordinance or regulation of the council. The council of any village may make such provisions as they shall deem expedient for the support and relief of poor persons residing in the village; and for that purpose may provide, by ordinance, or resolution for the appointment of a director of the poor for the village, and may prescribe his duties and vest him with such authority as may be proper for the due exercise of his duties.

HISTORY: CL 1897, 2770;—CL 1915, 2641;—CL 1929, 1550;—CL 1948, 67.2.

POUNDS.

67.3 Pounds, pound masters; regulations; fees, sale of animals.

Sec. 3. The council may provide and maintain 1 or more pounds within the village, and may appoint pound masters, prescribe their powers and duties, and fix their compensation, and may authorize the impounding of all beasts and fowls found in the

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streets or otherwise at large, contrary to any ordinance of the village; and if there shall be no pound or pound master they may provide for the impounding of such beasts and fowls by the village marshal, in some suitable place, under his immediate care and inspection, and may confer on him the powers and duties of pound master. The council may also prescribe the fees for impounding, and the amount or rate of expenses for keeping, and the charges to be paid by the owner or keeper of the beasts or fowls impounded; and may authorize the sale of such beasts and fowls for the payment of such fees, expenses, and charges, and for penalties incurred, and may impose penalties for rescuing any beast or fowl impounded.

HISTORY: CL 1897, 2771;—CL 1915, 2642;—CL 1929, 1551;—CL 1948, 67.3.

POUNDS: See Compilers' § 433.52 et seq.

PUBLIC BUILDINGS, GROUNDS, AND PARKS.

67.4 Village ownership; public buildings, grounds and parks; sale of parks.

Sec. 4. Any village may acquire, purchase, and erect such public buildings, as may be required for the use of the corporation, and may purchase, appropriate, and own such real estate as may be necessary for public grounds, parks, markets, public buildings, and other purposes necessary or convenient for the public good, and for the execution of the powers conferred in this act; and such buildings and grounds, or any part thereof, may be sold at public sale, or leased, as occasion may require: Provided, however, That no public parks shall be sold without the consent of a majority of the qualified electors of the village.

HISTORY: CL 1897, 2772;—CL 1915, 2643;—CL 1929, 1552;—CL 1948, 67.4.

COST-PLUS CONTRACTS: Prohibited in certain cases, see Compilers' §§ 17.41 and 17.42.

67.5 Prison or hospital; location outside corporate limits; regulations, enforcement.

Sec. 5. When the council shall deem it for the public interest, grounds and buildings for the village prison, hospital, and pest-house, may be purchased, erected, and maintained beyond the corporate limits of the village; and in such cases the council shall have authority to enforce beyond the corporate limits of the village, and over such lands, buildings and property, in the same manner and to the same extent as if they were within the village, all such ordinances and police regulations as may be necessary for the care and protection thereof, and for the management and control of the persons kept or confined in such prison, pest-house, or hospital.

HISTORY: CL 1897, 2773;—CL 1915, 2644;—CL 1929, 1553;—CL 1948, 67.5.

67.6 Public parks; powers of council.

Sec. 6. The council shall have authority to lay out, establish, or vacate and discontinue public parks and grounds within the village, and to improve, light, and ornament the same, and to regulate the use thereof, and to protect the same and the appurtenances thereof from obstruction, encroachment, and injury.

HISTORY: CL 1897, 2774;—CL 1915, 2645;—CL 1929, 1554;—CL 1948, 67.6.

STREETS AND SIDEWALKS.

67.7 Public highways, bridges, grounds; supervision; liability for damages; bridges, care.

Sec. 7. The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the village, and shall have the like authority over the same as is given by the general laws of the state. No village subject to the provisions of this act shall be liable in damages sustained by any person in such village, either to his person or property, by reason of any defective street, sidewalk, crosswalk, or public highway, or by reason of any obstruction, ice, snow or other incumbrance upon such street, sidewalk, crosswalk or public highway,

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situated in such village unless such person shall serve or cause to be served within 60 days after such injury shall have occurred a notice in writing upon the clerk or deputy clerk of such village, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold such village liable for such damages as may have been sustained by him: Provided, That the bridges within the limits of any village incorporated under this act in the highways leading into or through the said village which have been laid out or shall hereafter be laid out by the commissioner of highways of the township or townships in which said village may be located, or laid out by any other authority other than that of said village, shall be built, controlled and kept in repair by the township or townships in which the same may be located, the same as if said village were not incorporated and the fact that any such highways are laid out and used as such at the time of such incorporation of said village shall be deemed sufficient to make the same township highways, and the township or townships in which they may be located liable as aforesaid, and all other bridges in said village shall be built, controlled and kept in repair by said village.

HISTORY: CL 1897, 2775;—Am. 1899, p. 346, Act 223, Eff. Sept. 23;—CL 1915, 2646;—CL 1929, 1555;—CL 1948, 67.7.

HIGHWAYS: For the general principles of law relative to highways and streets and their opening, laying out and dedication, see Compilers' § 220.1 et seq.

CLAIM FOR DAMAGES: As to presentation of claims to council, see Compilers' § 65.7.

67.8 Sidewalks; construction, maintenance, expenses; allocation.

Sec. 8. The council shall have control of all sidewalks in the public streets and alleys of the village and may prescribe the grade thereof, and change the same when deemed necessary. They shall have power to build, maintain and keep in repair sidewalks and cross walks in the public streets and alleys, and to charge the expense of constructing and maintaining such sidewalks upon the lots and premises adjacent to and abutting upon such walks. The council shall also have authority to require the owners and occupants of lots and premises to build, rebuild and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials, and manner of construction, and within such time as the council shall, by ordinance or resolution, prescribe, the expense thereof to be paid by such owner or occupant; or the council may by a 2/3 vote of all the trustees elect pay such part of the expense of building or rebuilding such walk as they may deem proper from the general street fund, or from the street district fund of any street district in which such walk may be located.

HISTORY: CL 1897, 2776;—CL 1915, 2647;—CL 1929, 1556;—CL 1948, 67.8.

67.9 Sidewalks; removal of snow and ice; ordinance authorized.

Sec. 9. The council shall also have power, either by ordinance or resolution, to cause and require the owners and occupants of any lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to such lot and premises, and to keep the same free from obstructions, encroachments, incumbrances, filth and other nuisances: Provided, That the council may by a 2/3 vote of all the trustees elect provide by ordinance for the rebuilding, maintaining and keeping in repair of all sidewalks within the village and for the removing of all ice and snow therefrom, and for keeping the same free from incumbrances, and pay the expense thereof from the general street fund, or from the street district fund of any street district in which such sidewalk may be located.

HISTORY: CL 1897, 2777;—CL 1915, 2648;—CL 1929, 1557;—CL 1948, 67.9.

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67.10 Sidewalks; failure of abutting owner; assessment, collection.

Sec. 10. If the owner or occupant of any lot or premises shall fail to construct or maintain any particular sidewalk, as mentioned and prescribed in the last section, or shall fail to keep the same in repair, or to remove the snow, ice, and filth therefrom, or to remove and keep the same free from obstructions, encroachments, incumbrances, or other nuisances, or shall fail to perform any other duty required by the council in respect to such sidewalks, within such time and such manner as the council shall require, the council may cause the same to be done, and such sidewalk to be constructed or repaired, at the expense of such owner or occupant, and the council may cause the amount of all expenses incurred thereby, together with a penalty of 10 per cent in addition thereto, to be reported to the board of special assessors, to be levied by them as a special tax or assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review after proper notice has been given as in all other cases of special assessments provided for by this act; and such tax when confirmed shall be a lien upon such lot or premises the same as other special assessments, and the council shall order the assessor of the village to spread said amount, together with such penalty, upon his roll as a special assessment upon such lot or premises, and the same shall be collected in the same manner as other village taxes; or the village may collect such amount, together with the penalty aforesaid, from the owner or occupant of such premises in an action of assumpsit, together with costs of suit.

HISTORY: CL 1897, 2778;—CL 1915, 2649;—CL 1929, 1558;—CL 1948, 67.10.

67.11 Sidewalks; regulation of things on, over and under.

Sec. 11. The council shall have power to regulate and prohibit the placing of signs, awnings, awning posts and other things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks, and of all vaults, structures, and excavations under the same.

HISTORY: CL 1897, 2779;—CL 1915, 2650;—CL 1929, 1559;—CL 1948, 67.11.

SPECIAL ASSESSMENTS: See Compilers' §§ 68.1 to 68.22.

67.12 Public improvement; powers of council; condemnation; expenses, assessment.

Sec. 12. The council shall have power to lay out, establish, open, make, widen, extend, straighten, alter, close, vacate, or abolish any highway, street, lane, alley, sidewalk, sewer, drain, water course, bridge, or culvert in the village whenever they shall deem the same a public improvement, or necessary for the public convenience; and if in so doing it shall be necessary to take or use private property the same may be taken in the manner provided in this act. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefited by such improvement, in the manner in this act provided for levying and collecting special assessments, or in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general highway fund.

HISTORY: CL 1897, 2780;—CL 1915, 2651;—CL 1929, 1560;—CL 1948, 67.12.

CONDEMNATION: See Compilers' §§ 73.1 to 73.36. For other provisions relating to condemnation of private property for public purposes, see Compilers' §§ 213.1 et seq.

SPECIAL ASSESSMENTS: See Compilers' §§ 68.1 to 68.22.

67.13 Public highways, grounds; vacation; objections, filing; vote.

Sec. 13. When the council shall deem it advisable to vacate, discontinue, or abolish any highway, street, lane, alley, or public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time not less than 4 weeks thereafter when they will meet and hear objections thereto; notice of such meeting, with a copy of said resolution, shall be given in such manner as shall be prescribed by ordinance or resolution. Objections to such proposed action of the council

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may be filed with the clerk in writing, and if any such shall be filed, the street, alley, or public ground, or any part thereof, shall not be vacated or discontinued, except by a vote of 2/3 of the trustees elect.

HISTORY: CL 1897, 2781;—CL 1915, 2652;—CL 1929, 1561;—CL 1948, 67.13.

67.14 Public highways; survey; vacation resolution, recording, evidence.

Sec. 14. The council may cause all public streets, alleys, and public grounds to be surveyed, and may determine and establish the boundaries thereof, and cause the surveys and descriptions thereof to be recorded in the office of the clerk in a book of street records, and they shall cause surveys and descriptions of all streets, alleys, and public grounds opened, laid out, altered, extended, or accepted and confirmed by them to be recorded in like manner, and such record shall be prima facie evidence of the existence of such streets, alleys or public grounds, as in the records described. Every resolution or ordinance discontinuing or vacating any street, alley or public ground shall also be recorded in said book of street records and the record shall be prima facie evidence of all matters therein set forth.

HISTORY: CL 1897, 2782;—CL 1915, 2653;—CL 1929, 1562;—CL 1948, 67.14.

67.15 Street grades; conformity with adjacent lands; record, diagram.

Sec. 15. The council shall have authority to determine and establish the grade of all streets, avenues, alleys, and public grounds within the village, and to require improvements and buildings, adjacent to, or abutting upon such streets, alleys or grounds to be made and constructed in conformity with such grade; and the council may change or alter the grade of any street, alley or public ground, or of any part thereof whenever in their opinion the public convenience will be promoted thereby. Whenever a grade shall be established or altered a record and diagram thereof shall be made in the book of street records in the office of the clerk.

HISTORY: CL 1897, 2783;—CL 1915, 2654;—CL 1929, 1563;—CL 1948, 67.15.

67.16 Street grades; change; damage to property owner, payment.

Sec. 16. Whenever the grade of any street or sidewalk shall have been heretofore, or shall hereafter be established, and improvements shall thereafter be made by the owner or occupant of the adjacent property in conformity to such grade, such grade shall not be changed without compensation to the owner for all damages to such property resulting therefrom, to be ascertained by a jury as provided in chapter 13 of this act, or said damages may be ascertained and agreed upon by and between such village and the owner or occupant of such premises. Whenever such damage shall be ascertained or agreed upon, as heretofore provided, such damages or such part thereof as the council shall deem equitable and just, shall be paid by the village or the council may cause such damages, or such part thereof as may be just and proper, to be assessed upon such real estate as may be benefited by reason of the change of such grade, and whenever the council shall determine to assess such damages, or any part thereof, upon the property benefited, it shall determine and define a district in said village which in its judgment is benefited by the improvement out of which said damages arise, and shall cause the same to be assessed upon such district, which said assessment shall be upon the owners or occupants of the taxable real estate in said district, in proportion as nearly as may be to the advantage or benefit each lot, parcel, or subdivision is deemed to acquire by the improvement out of which such damages arise; but the property on account of which such damages were awarded shall not be included in said district. The assessment shall be made, and the amount levied and collected in the same manner as other assessments on a district deemed to be benefited, in the grading and improvement of streets, as provided for in this act; and all of the provisions of chapter 8 of this act relative to special assessments and the collection

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thereof, shall apply thereto. Such damages when collected as aforesaid, or when determined upon by the village shall be paid to the person entitled thereto.

HISTORY: CL 1897, 2784;—CL 1915, 2655;—CL 1929, 1564;—CL 1948, 67.16.

NOTE: Chapter 13, above referred to, is Compilers' §§ 73.1 to 73.36; Ch. 8, is Compilers' §§ 68.1 to 68.22.

PAVING AND IMPROVEMENTS.

67.17 Bridges, culverts, and streets; construction, maintenance.

Sec. 17. The council shall have authority to construct and maintain bridges and culverts where needed; and to grade, pave, curb, gravel, plank, and otherwise improve and repair the highways, streets, lanes, avenues and alleys of the village.

HISTORY: CL 1897, 2785;—CL 1915, 2656;—CL 1929, 1565;—CL 1948, 67.17.

BRIDGES AND CULVERTS: See Compilers' § 254.1 et seq.

67.18 Bridges, culverts, and streets; expenses, payment; tax levy; paving construed.

Sec. 18. The expense of constructing and maintaining bridges, and the whole, or such part as the council shall determine, of the expense of improving and working, including grading and graveling upon the streets and highways, may be paid from the general highway fund, to be raised by tax upon all the property in the village; or, the village may be divided into street districts, and a part of the whole expense of improving and working the streets, in each district may be paid from a street district fund, to be raised by a tax upon the property in the district. The expense of grading, paving, graveling and planking any street may be defrayed by a special assessment upon the lots and premises abutting upon such improvement, in proportion to their number of feet front upon the street; or a part of such expense may be so paid, and the remainder may be paid from the general highway fund, or from the street district fund, as the council may decide. The lots and premises to be assessed according to their frontage upon a street improvement as aforesaid, shall constitute a special assessment district. The term paving shall include curbing and the construction of cross walks in the paved streets.

HISTORY: CL 1897, 2786;—CL 1915, 2657;—CL 1929, 1566;—CL 1948, 67.18.

SPECIAL ASSESSMENTS: See Compilers' §§ 68.1 to 68.22.

67.19 Bridges, culverts, and streets; principles of tax apportionment.

Sec. 19. When expenses for any such improvement shall be assessed in a special assessment district, and there shall be lands belonging to the village, school buildings, or other public buildings or public grounds not taxable, fronting upon such improvement, such part of the expense of such improvement as in the opinion of the council or board of assessors making the special assessment would be justly apportionable to such public grounds, buildings, and city property, and to any interior squares or spaces formed by the intersection of streets, were they taxable, shall be paid from the general highway fund, and the balance of such expense shall be assessed upon the taxable lots and premises included in the special assessment district, in proportion to their number of feet frontage upon such improvement. When such assessment is to be made upon lots in proportion to their frontage upon the improvement, if from the shape or size of any lot an assessment thereon in proportion to its frontage would be unjust and disproportionate to the assessment upon other lots, the council or board of assessors making the assessment may assess such lot for such number of feet frontage as in their opinion will be just.

HISTORY: CL 1897, 2787;—CL 1915, 2658;—CL 1929, 1567;—CL 1948, 67.19.

STREET REGULATIONS.

67.20 Obstructions, encroachments; removal; offenders, punishment.

Sec. 20. The council shall have the power to prohibit and prevent obstructions and incumbrances in and encroachments upon the public highways, streets, and alleys of

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the village, and remove the same; and to punish those who shall obstruct, encumber, encroach or maintain any encroachment, upon or in any such highway, street or alley; and to require all such persons to remove every such obstruction, incumbrance or encroachment.

HISTORY: CL 1897, 2788;—CL 1915, 2659;—CL 1929, 1568;—CL 1948, 67.20.

67.21 Trees in highways; street lighting.

Sec. 21. The council may provide for and regulate the planting of shade and ornamental trees in public highways, streets and avenues of the village, and for the protection thereof, and the trimming of all trees in or that overhang such highways, streets, or avenues, or which obstruct public lighting, and may light the streets and public places, and regulate the setting of lamps and lamp posts therein and protect the same.

HISTORY: Am. 1897, p. 64, Act 54, Eff. Aug. 30;—CL 1897, 2789;—CL 1915, 2660;—CL 1929, 1569;—CL 1948, 67.21.

67.22 Public streets; excavation, regulation.

Sec. 22. The council may regulate the making of all openings in and removals of earth from public streets, for the laying or repair of sewers, drains, tunnels, gas pipes, water pipes, or for any other purpose; and may prohibit and prevent all such openings and removals of earth except by permission of the council, and at such times and upon such terms and regulations as they may prescribe.

HISTORY: CL 1897, 2790;—CL 1915, 2661;—CL 1929, 1570;—CL 1948, 67.22.

67.23 Public streets; regulations, enforcement; council, powers.

Sec. 23. The council may regulate the use of public highways, streets, avenues and alleys of the village, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or used for the transportation of persons or property for hire; to designate the places where loads of wood, coal, hay and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use or placing of signs, advertisements, banners, awnings, posts, poles or lamps in or over the streets; to regulate or prohibit all such sports, amusement proceedings and gatherings of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of beasts and fowls in the streets or elsewhere in the village, and to impose penalties upon the owners or keepers thereof permitting the same; to cleanse and purify the streets, and to prohibit, prevent, remove and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same, and to punish them for the creation or maintenance thereof, and generally to prescribe and enforce all such police regulations over and in respect to the public streets as may be necessary to secure good order and safety to persons and property in the lawful use thereof, and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the village as are conferred by law upon highway commissioners in townships.

HISTORY: CL 1897, 2791;—CL 1915, 2662;—CL 1929, 1571;—CL 1948, 67.23.

SEWERS, DRAINS AND WATER-COURSES.

67.24 Sewers, drains, water-courses; construction, condemnation.

Sec. 24. The council of any village may establish, construct and maintain sewers, drains and water-courses whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of

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the village; and private property, or the use thereof, may be taken therefor in the manner provided by this act for taking private property for public use. But in all cases where the council shall deem it practicable, such sewer, drain and water-courses shall be constructed in the public streets and grounds.

HISTORY: CL 1897, 2792;—CL 1915, 2663;—CL 1929, 1572;—CL 1948, 67.24.

SANITATION: Supervision and regulation by department of health, see Compilers' § 325.201 et seq.

CONDEMNATION: See Compilers' §§ 73.1 to 73.36.

SEWERS: Construction in private property, see Compilers' § 123.181.

GARBAGE AND SEWAGE: Disposal of, see Compilers' § 123.241 et seq.

CONVENIENCE STATIONS: See Compilers' §§ 123.171 and 123.172.

67.25 Sewers, drains, water-courses; methods of raising money; contractor, payment.

Sec. 25. (1) The expense of constructing sewers, drains and water courses may be paid by general tax upon all the taxable property in the village; or such expenses may be defrayed by special assessment upon the lands and premises benefited by the drainage, in proportion to the benefits resulting to each lot or parcel of land respectively; or such part of the expense as the council shall determine may be defrayed by special assessment, and the remainder may be paid by general tax. And if the council shall declare that the expense of any sewer, drain or water course, or any part of such expense, shall be paid by a special assessment upon the lands and premises benefited, then such special assessment may be levied on a special assessment roll which shall contain a list of the lots or parcels of land constituting the special assessment district with the names of the owners, if known, or occupants of each lot or parcel of land. Such special assessment may be levied in a single assessment, or, in the discretion of the council, may be payable in not to exceed 20 installments, 1 of which shall become due and be collected each year, at such time as the council shall determine, with interest at a rate not exceeding 6% per annum to be fixed by the council; but the whole assessment after confirmation may be paid in full by any person assessed for such improvement, without interest at the time when the first installment is due.

Bonds, issuance, interest; contractor, payment.

(2) The village council shall have power to issue bonds of the village bearing not to exceed 6% interest to an amount not exceeding the assessment, and may, in its discretion, pledge the full faith and credit of the village for the payment of such bonds. Bonds for 2 or more improvements may be consolidated in a single issue. All payments made on the assessments shall be paid into and constitute a fund for the payment of the bonds at maturity. Owners and occupants paying by installments shall pay the full amount of the interest on each installment down to the maturity thereof, but may pay the principal and such interest before maturity. Contractors for the construction of sewers may be required to take their pay in such special sewer bonds; and if the council so declares, the notice of such declaration shall be included in the notice calling for proposals to construct such sewers. The council shall, however, first advertise the bonds for sale for 2 consecutive weeks in some newspaper of general circulation within or near said village, and in such other manner as they may determine. Bids received for such bonds shall be opened in public and the sale of the bonds awarded to the highest responsible bidder; or after so advertising for sale, the council may reject all bids and require the contractor or contractors to accept any or all of his pay in such bonds at not less than their par value. No such bonds shall, in any event be sold, or otherwise disposed of, at less than their par value. The village council may issue similar bonds to defray that portion of the cost or expense of any sewer, drain or water course, chargeable to lands belonging to the village, school buildings or other public buildings or grounds, including such portion of the cost or expense as the council may have decided to pay from the general fund.

HISTORY: CL 1897, 2793;—Am. 1905, p. 173, Act 125, Imd. Eff. May 17;—CL 1915, 2664;—Am. 1921, p. 524, Act 278, Imd. Eff. May 18;—Am. 1929, p. 179, Act 71, Eff. Aug. 28;—CL 1929, 1573;—CL 1948, 67.25;—Am. 1969, p. 107, Act 58, Imd. Eff. Jul. 21.

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67.26 Sewers, drains, water-courses; special assessment; map of sewer district, contents; filing with cost estimate; hearing, notice.

Sec. 26. Before proceeding to the construction of any sewer, drain or water-course, the expense or any part of the expense of which is to be defrayed by special assessment, the council shall cause a map to be made of those lands and premises which in their opinion will be benefited by the drainage, and which they intend to assess for the cost of the sewer or drain. Said lands shall constitute a sewer district; and said map shall show the boundaries and divisions of all the lots and premises in the district, and the proposed route and location of the sewer through the same; also its depth, grade and dimensions. Said map, with an estimate of the cost of the proposed work, shall be deposited with the clerk, and notice shall be given by publication in a newspaper of the village for 2 weeks or by posting copies of such notice for the same length of time, in 3 public places in the village, of the intention to construct the sewer or drain, and where the map and estimates aforesaid can be found, and appointing a time when the council will meet to hear any suggestions and objections from persons interested or liable to be assessed for the work.

HISTORY: CL 1897, 2794;—CL 1915, 2665;—CL 1929, 1574;—CL 1948, 67.26.

67.27 Sewers, drains, water-courses; declaration by resolution, contents, map, filing.

Sec. 27. When the council shall determine to construct any such sewer, drain, or water-course, they shall so declare by resolution, designating the lands or district to be assessed and describing, by reference to the map and diagram mentioned in the preceding section, the route, location, depth, grade, and dimensions of the work, and shall state in the same resolution what part of the expense, if any, is to be paid by general tax, and what part by special assessment, according to the benefits; such map and diagram as adoped [adopted] shall be filed with the clerk.

HISTORY: CL 1897, 2795;—CL 1915, 2666;—CL 1929, 1575;—CL 1948, 67.27.

67.28 Special assessment.

Sec. 28. Special assessments for the purposes aforesaid shall be made in the manner provided in chapter 8 of this act.

HISTORY: CL 1897, 2796;—CL 1915, 2667;—CL 1929, 1576;—CL 1948, 67.28.

NOTE: Chapter 8, above referred to, is Compilers' §§ 68.1 to 68.22.

67.29 Private drains; construction, regulation; work at private expense.

Sec. 29. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.

HISTORY: CL 1897, 2797;—CL 1915, 2668;—CL 1929, 1577;—CL 1948, 67.29.

67.30 Private drains; connection with public sewers.

Sec. 30. The owners and occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the council shall prescribe.

HISTORY: CL 1897, 2798;—CL 1915, 2669;—CL 1929, 1578;—CL 1948, 67.30.

67.31 Private drains; connection tax.

Sec. 31. The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding 2 dollars per year, as they may deem just, in proportion to the amount of

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drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessment thereon.

HISTORY: CL 1897, 2799;—CL 1915, 2670;—CL 1929, 1579;—CL 1948, 67.31.

SPECIAL ASSESSMENT: See Compilers' §§ 68.1 to 68.22.

67.32 Ditches, water-courses; special assessment.

Sec. 32. Such part of the expense of providing ditches and improving water-courses, as the council shall determine, may be defrayed by special assessment upon the lands and premises benefited thereby in proportion to such benefits.

HISTORY: CL 1897, 2800;—CL 1915, 2671;—CL 1929, 1580;—CL 1948, 67.32.

SPECIAL ASSESSMENT: See Compilers' §§ 68.1 to 68.22.

67.33 Ditches, water-courses; public sewers; repair expense.

Sec. 33. The expenses of repairing public sewers, ditches, and water-courses may be paid by general tax. The expenses of reconstructing public sewers may be defrayed in the manner herein prescribed for paying the expenses of the construction thereof.

HISTORY: CL 1897, 2801;—CL 1915, 2672;—CL 1929, 1581;—CL 1948, 67.33.

CONSTRUCTION EXPENSE: See Compilers' § 67.25.

67.34 Public sewers and drain ordinances.

Sec. 34. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to the drainage of the village.

HISTORY: CL 1897, 2802;—CL 1915, 2673;—CL 1929, 1582;—CL 1948, 67.34.

HARBORS, WHARVES, AND HARBOR MASTERS.

67.35 Public wharves, piers and levees; construction, regulation, leasing of privileges.

Sec. 35. The council of any village located upon or adjacent to any of the navigable waters of the state shall have the power to establish, construct, maintain, and control public wharves, docks, piers, landing places, and levees, upon any lands or property belonging to or under the control of the village, including property at the foot or end of public streets; and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than 10 years, and in such manner as to preserve the right of all persons to a free passage over the same with their baggage.

HISTORY: CL 1897, 2803;—CL 1915, 2674;—CL 1929, 1583;—CL 1948, 67.35.

67.36 Public wharves; conformity with grade; line limit.

Sec. 36. The council shall have authority also to require and cause all docks, wharves and landings, whether upon public grounds or upon the property of private individuals, to be constructed and maintained in conformity with such grade as may be established therefor by the council, and to prescribe the line beyond which any such wharf, dock, or landing shall not be constructed or maintained.

HISTORY: CL 1897, 2804;—CL 1915, 2675;—CL 1929, 1584;—CL 1948, 67.36.

67.37 Public wharves; rates and charges.

Sec. 37. The council shall have authority to prohibit the encumbering of the public wharves and landings, and to regulate the use of all wharves, docks and landing places within the village; to regulate the use and location of wharf-boats; and to regulate and prescribe the rates and charges for landing, wharfage, and dockage at all public wharves, docks and landings, and to collect wharfage and dockage from boats, watercraft, and floats landing at or using any public landing place, wharf, or dock within the village.

HISTORY: CL 1897, 2805;—CL 1915, 2676;—CL 1929, 1585;—CL 1948, 67.37.

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67.38 Preservation of purity of water; regulation of navigable waters.

Sec. 38. The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the village, to control and regulate the anchorage, moorage, and management of all boats, watercraft, and floats within the jurisdiction of the village; and to regulate and prescribe by such ordinances, or through a harbor master or other officer, such location of any boat, craft, vessel, or float, and such changes of station in, and use of the harber [harbor] as may be required to promote order therein, and the safety and convenience of all such boats, craft, vessels and floats, and to regulate the opening and passage of bridges; and generally to enact and enforce such ordinances and regulations not inconsistent with the laws of the United States, or this state, as in the opinion of the council shall be most conducive to the orderly, safe and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers, and landing places within the village.

HISTORY: CL 1897, 2806;—CL 1915, 2677;—CL 1929, 1586;—CL 1948, 67.38.

67.39 Harbor master; appointment, duties, compensation.

Sec. 39. The council may also appoint a harbor master whose duty it shall be to enforce all such ordinances and regulations as the council may lawfully enact and prescribe in respect to, and over the navigable waters, harbors, wharves, docks, landings and basins within the village, and in respect to the navigation, trade and commerce of the village, and prescribe the powers and duties of such harbor master and fix his compensation.

HISTORY: CL 1897, 2807;—CL 1915, 2678;—CL 1929, 1587;—CL 1948, 67.39.

FERRIES.

67.40 Ferry licenses; restrictions, penalties.

Sec. 40. The council of any village may regulate and license ferries from such village, or any place of landing therein, to the opposite shore, or from one part of the village to another; and may require the payment of such reasonable sum for such license as the council shall deem proper; and may impose such reasonable terms and restrictions, in relation to the keeping and management of ferries, and the time, manner, and rates of carriage and transportation of persons and property as may be proper, and may provide for the revocation of any such license, and for the punishment, by proper fines and penalties, for violations of any ordinance prohibiting unlicensed ferries, or regulating those established and licensed.

HISTORY: CL 1897, 2808;—CL 1915, 2679;—CL 1929, 1588;—CL 1948, 67.40.

MARKETS.

67.41 Markets; establishment; regulation.

Sec. 41. The council of any village shall have the power to establish and regulate markets and market-places, for the sale of meats, fish, vegetables, and other provisions and articles necessary for the sustenance and convenience of the inhabitants; to prescribe the times for opening and closing the same; the kind and description of articles which may be sold; and the stands and places to be occupied by the venders.

HISTORY: CL 1897, 2809;—CL 1915, 2680;—CL 1929, 1589;—CL 1948, 67.41.

67.42 Regulations; adoption, enforcement.

Sec. 42. The council may adopt and enforce such regulations as may be necessary to prevent fraud and to preserve order in the markets; and may authorize the immediate arrest, and removal from the market, of any person violating such regulations, together

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with any article in his possession; and may authorize the seizure and destruction of tainted or unsound meats, or other provisions exposed for sale therein, or elsewhere in the village.

HISTORY: CL 1897, 2810;—CL 1915, 2681;—CL 1929, 1590;—CL 1948, 67.42.

PARTITION FENCES.

67.43 Ordinances and laws; fence viewers.

Sec. 43. The council is authorized to enact all such ordinances and laws as it may deem proper relative to the building, rebuilding, maintaining and repairing of partition fences by the owners and occupants of adjoining lots, enclosures and parcels of land in the village; and relative to the assigning to the owners or occupants of such adjoining pieces of land, the portion of such partition fences to be maintained by them respectively; and may provide for the recording of such assignments and divisions when made; and may provide for the recovery of damages from any owner or occupant who shall fail to comply with the provisions and requirements of any ordinance relative to such partition fences. And the council may appoint fence-viewers and prescribe their duties and mode of proceeding in all cases relating to partition fences in the village.

HISTORY: CL 1897, 2811;—CL 1915, 2682;—CL 1929, 1591;—CL 1948, 67.43.

POLICE.

67.44 Village police force.

Sec. 44. The council of any village may provide for and establish a police force, and may authorize the president to appoint, by and with the consent of the council, from time to time such number of policemen and night watchmen as they shall deem expedient for the good government of the village, and for the protection of the persons and property of the inhabitants, and they may authorize the president of the village, in cases of emergency and danger, to appoint, temporarily, such number of policemen as in his judgment the occasion may require.

HISTORY: CL 1897, 2812;—CL 1915, 2683;—CL 1929, 1592;—CL 1948, 67.44.

67.45 Village police force; regulation; powers, duties.

Sec. 45. The council shall make all necessary rules for the government of the police, and prescribe the powers and duties of policemen and watchmen, and they may invest them with such authority as may be necessary for the preservation of quiet and good order in the village.

HISTORY: CL 1897, 2813;—CL 1915, 2684;—CL 1929, 1593;—CL 1948, 67.45.

67.46 Chief of police; powers, duties of police.

Sec. 46. The village marshal shall be the chief of the police, and subject to the president, shall have the direction of the police of the village. For the preservation of the peace, the police and watchmen shall have all the powers given by law to constables. It shall be their duty to suppress all riots, disturbances and breaches of the peace; to arrest all persons fleeing from justice, to apprehend upon view any person found in the act of committing any offense against the laws of the state, or violating the ordinances of the village in any manner involving a breach of the peace, and to take the offender before the proper magistrate or officer, to be punished; to make complaints before the proper magistrate of any person known or believed by them to be guilty of crime or any violation of the ordinances of the council; and to serve all processes that may be delivered to them for that purpose, and generally to perform all such duties as may be required by the council for the good government of the village.

HISTORY: CL 1897, 2814;—CL 1915, 2685;—CL 1929, 1594;—CL 1948, 67.46.

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PUBLIC HEALTH.

67.47 Authorized village public health ordinances.

Sec. 47. The council of any village may enact all such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants thereof, and to prevent the introduction of malignant, infectious, or contagious diseases within the village or within 1 mile thereof; and for the removal of persons having such diseases, or who, from exposure thereto, or otherwise, may be suspected or believed to be liable to communicate the same, either beyond the corporate limits, or to such hospital or place of treatment within the village as the council may prescribe and the public safety may require.

HISTORY: CL 1897, 2815;—CL 1915, 2686;—CL 1929, 1595;—CL 1948, 67.47.

BOARD OF HEALTH: In villages, see Compilers' § 327.49.

67.48 Nuisances; prevention, abatement.

Sec. 48. The council shall have power to prevent and remove or abate all nuisances dangerous to life or health within the village; and may require any person, corporation or company causing such nuisance, and the owner or occupant of any lot or premises upon or in which any such nuisance or cause of disease may be found, to remove or abate the same upon such notice, and within such time and in such manner as the council may by ordinance or resolution direct.

HISTORY: CL 1897, 2816;—CL 1915, 2687;—CL 1929, 1596;—CL 1948, 67.48.

NUISANCES: See Compilers' § 67.1, subd. 3.

Garbage disposal plants, see Act 261 of 1927, being Compilers' § 123.271 et seq.

67.49 Nuisances; unwholesome premises.

Sec. 49. If any cellar, vault, lot, sewer, drain, place or premises within the village, shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce offensive exhalations, the council may cause the same to be drained, filled up, cleansed or purified; or may require the owner or occupant, or person in charge of such lot, premises or place, to perform such duty; and may require the owner or occupant of any building, fence or structure which may be ruinous, or liable to fall and injure persons or property, to pull down or remove the same or the council may cause the same to be done by any officer of the village.

HISTORY: CL 1897, 2817;—CL 1915, 2688;—CL 1929, 1597;—CL 1948, 67.49.

67.50 Nuisances; removal at private expense, collection of expenses.

Sec. 50. If the owner or occupant of any lot or premises, when required by the council or board of health to remove any unsafe building or structure, or to cleanse, purify or drain such lot or premises, or to abate or remove any nuisance therefrom, shall neglect so to do, and the council shall incur any expense in causing the same to be done, such expense may be charged upon such lot or premises, and collected as a special assessment thereon; or such expense may be recovered by the village in an action of debt or assumpsit against the owner or occupant of any such lot or premises.

HISTORY: CL 1897, 2818;—CL 1915, 2689;—CL 1929, 1598;—CL 1948, 67.50.

67.51 Offensive trades; location.

Sec. 51. The council, when they shall deem it necessary, may from time to time assign, by ordinance, certain places for the exercise of any trade or employment offensive to the inhabitants, or dangerous to the public health; and may forbid the exercise thereof in places not so assigned; and may change or revoke such assignments at pleas-

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ure; and whenever a business carried on in any place so assigned or in any other place in the village, shall become hurtful and dangerous to the health of the neighborhood, the council may prohibit the further exercise of such business or employment at such place.

HISTORY: CL 1897, 2819;—CL 1915, 2690;—CL 1929, 1599;—CL 1948, 67.51.

67.52 Village hospital; personnel; infected persons; regulations.

Sec. 52. The council may provide for the appointment of the necessary officers and *employe's for the management of the village hospital and for the care and treatment therein of such sick and diseased persons as to the council or board of health of the village shall seem proper; and by direction of the council or board, persons having any malignant, infectious, or contagious disease, may be removed to such hospital, and there detained and treated, when the public safety may so require; and the council may provide such restraints and punishments as may be necessary to prevent any such person from departing from such hospital until duly discharged.

HISTORY: CL 1897, 2820;—CL 1915, 2691;—CL 1929, 1600;—CL 1948, 67.52.

*NOTE: It is evident the word "employe's" should be "employes".

67.53 Council; powers of board of health.

Sec. 53. The council shall have and exercise all the powers and authority conferred upon boards of health by the general laws of the state, so far as the same are applicable; and they may enact such ordinances as may be necessary for regulating the proceedings and mode of exercising such powers.

HISTORY: CL 1897, 2821;—CL 1915, 2692;—CL 1929, 1601;—CL 1948, 67.53.

COUNCIL AS BOARD OF HEALTH: For a similar provision, see Compilers' § 327.49.

POWERS AND DUTIES: Of boards of health, see Compilers' § 327.1 et seq.

67.54 Board of health; establishment, duties, powers.

Sec. 54. When the council shall deem it necessary, they may establish a board of health for the village, and appoint officers therefor, and make rules for its government, and invest it with such powers and authority as may be necessary for the protection and preservation of the health of the inhabitants.

HISTORY: CL 1897, 2822;—CL 1915, 2693;—CL 1929, 1602;—CL 1948, 67.54.

VILLAGE BOARDS OF HEALTH: Powers and duties, see Compilers' § 327.49 et seq.

CEMETERIES.

67.55 Interments; regulation.

Sec. 55. Any village may acquire, hold and own such cemetery or public burial place or places, either within or without the limits of the corporation as in the opinion of the council shall be necessary for the public welfare, and suitable for the convenience of the inhabitants, and may prohibit the further interment of the dead within the village, or may limit such interment therein to such cemetery or burial place as the council may prescribe. And the council may cause any bodies buried within the village, in violation of any rule or ordinance made in respect to such burials, to be taken up and buried elsewhere.

HISTORY: CL 1897, 2823;—CL 1915, 2694;—CL 1929, 1603;—CL 1948, 67.55.

CEMETERIES: See Compilers' § 128.21 et seq. As to vacation, see particularly Compilers' § 128.41.

67.56 Cemeteries; appropriation by council.

Sec. 56. The council may, within the limitations in this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds, and for the improvement, adornment, protection and care thereof.

HISTORY: CL 1897, 2824;—CL 1915, 2695;—CL 1929, 1604;—CL 1948, 67.56.

67.57 Board of cemetery trustees; appointment, removal.

Sec. 57. Whenever any village shall own, purchase or otherwise acquire any cemetery or cemetery grounds, there shall be appointed by the council, 3 trustees who shall

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be freeholders and electors of the village, and who shall constitute a "board of cemetery trustees." The 3 trustees so appointed shall hold their office for the term of 3 years, except that at the first appointment, 1 shall be appointed for 1 year, 1 for 2 years, and 1 for the term of 3 years from the second Monday in April of the year when appointed, and annually thereafter 1 trustee shall be appointed. The council may remove any trustee so appointed for inattention to his duties, want of proper judgment, or skill in or for the proper discharge of the duties required of him, or other good cause. Said board shall serve without compensation.

HISTORY: CL 1897, 2825;—CL 1915, 2696;—CL 1929, 1605;—CL 1948, 67.57.

67.58 Board of cemetery trustees; chairman, clerk; powers, duties.

Sec. 58. The board of cemetery trustees shall appoint 1 of their number chairman and the village clerk shall be clerk of the board, and the council may by ordinance invest the board with such powers and authority as may be necessary for the care, management and preservation of such cemetery and grounds, the tombs and monuments therein and the appurtenances thereof and in addition to the duties herein mentioned the board shall perform such other duties as the council may prescribe.

HISTORY: CL 1897, 2826;—CL 1915, 2697;—CL 1929, 1606;—CL 1948, 67.58.

67.59 Board of cemetery trustees; duties; directions of council.

Sec. 59. Said board subject to the directions and ordinances of the council shall have the care and management of any such cemetery or burial place or places and shall direct the improvements and embellishments of the grounds, cause such grounds to be laid out into lots, avenues and walks, the lots to be numbered and the avenues and walks to be named and plats thereof to be made and recorded in the office of the village clerk. The board shall fix the price of lots and make the sales thereof. The conveyances of such lots shall be executed on behalf of the village by the clerk and be recorded in his office at the expense of the purchasers.

HISTORY: CL 1897, 2827;—CL 1915, 2698;—CL 1929, 1607;—CL 1948, 67.59.

67.60 Board of cemetery trustees; cemetery employes; ordinances, enforcement; rules.

Sec. 60. Said board shall appoint the necessary superintendents and *employe's for the cemetery, expend the money provided for the care and improvement of the grounds, enforce the ordinances of the village made for the management and care thereof and make such regulations for the burial of the dead, the care and protection of the grounds, monuments and appurtenances of the cemetery and the orderly conduct of persons visiting the grounds, as may be consistent with the ordinances of the village and the laws of the state.

HISTORY: CL 1897, 2828;—CL 1915, 2699;—CL 1929, 1608;—CL 1948, 67.60.

*NOTE: It is evident the word "employe's" should be "employes".

67.61 Board of trustees; cemetery fund; reports to council, contents.

Sec. 61. All moneys raised for any public cemetery authorized by this act, and all moneys received from the sale of lots therein, or otherwise therefrom, shall be paid into the village treasury and constitute a fund to be denominated the "cemetery fund." Said fund shall not be devoted or applied to any other purpose except the purposes of such cemetery. The board of trustees shall report to the council annually, on the first Monday in March, and oftener when the council shall so require, the amount of all moneys received into and owing to the cemetery fund, and from what source, and from whom, and the date, amount, items and purpose of all expenditures and liabilities incurred, and to whom paid, and to whom incurred, and such other matters as the council shall require to be reported, which report shall be verified by the oath of the clerk of the board.

HISTORY: CL 1897, 2829;—CL 1915, 2700;—CL 1929, 1609;—CL 1948, 67.61.

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67.62 Necessary ordinances; enforcement.

Sec. 62. The council of any village owning a public burial ground or cemetery whether within or without the village may pass and enforce all ordinances necessary to carry into effect the provisions herein and to control or regulate such cemetery or burial place and the improvement thereof and to protect the same and the appurtenances thereof from injury and to punish violations of any lawful orders and regulations made by the board of cemetery trustees.

HISTORY: CL 1897, 2830;—CL 1915, 2701;—CL 1929, 1610;—CL 1948, 67.62.

67.63 Cemetery trustees; power to accept gifts, use.

Sec. 63. The board of cemetery trustees created under this act shall have power to receive in trust moneys or property by way of gifts, grants, devises or bequests for cemetery purposes. All moneys and property which may be so received by said board of cemetery trustees by way of gifts, grants, devises or bequests for cemetery purposes, shall be held in trust by said board, subject to the terms and conditions on which the same may be given, granted, devised or bequeathed, and the same shall constitute a trust fund, and if in money, shall, unless otherwise expressed by those making such gifts, grants, devises or bequests, be invested as permanent fund in undoubted real estate security, U.S. bonds, state bonds, or municipal bonds, the interest thereon after fulfillment of such conditions expressed, to be used in improving the cemetery under the control of said board, and no part of such gifts, grants, devises or bequests shall be used or appropriated for other than cemetery purposes.

HISTORY: Add. 1899, p. 347, Act 223, Eff. Sept. 23;—CL 1915, 2702;—CL 1929, 1611;—CL 1948, 67.63.

67.64 Cemetery trustees; rules, by-laws; treasurer, duties, bond.

Sec. 64. The board of cemetery trustees shall have full power and authority to make all requisite and necessary rules and by-laws to carry into effect the powers vested and duties required by section 63 of this act; and such by-laws shall be entered upon and recorded in a book to be kept for that purpose. Said board of cemetery trustees shall also appoint a treasurer from their membership, whose duties shall be, under the direction of said board, to receive, account for and invest all moneys received by said board under section 63 of this act. Said treasurer shall give and execute a bond to the board of cemetery trustees in the penal sum fixed by the council.

HISTORY: Add. 1899, p. 347, Act 223, Eff. Sept. 23;—CL 1915, 2703;—CL 1929, 1612;—CL 1948, 67.64.

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CHAPTER VIII—IMPROVEMENTS AND ASSESSMENTS.

68.1 Public improvements; payment from general fund; boulevard lighting, assessment.
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68.4 Special assessment; expense estimates; public examination; notice.
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68.22 Paving assessments; manner, interest; bonds; sinking fund; payment of contractors.

68.1 Public improvements; payment from general fund; boulevard lighting, assessment.

Sec. 1. The cost and expense of the following improvements, including the necessary lands therefor, viz.: For public buildings and offices for the use of village officials, engine houses and structures for the fire department, for water works, for lighting purposes, cemeteries, parks, watch houses, and village prisons, shall be paid from the proper general funds of the village: Provided, however, That if a majority of the property owners along a street, owning a major part of the frontage thereon, shall so petition the council in writing, the cost and expense of installing a boulevard lighting system on such street may be met by a special assessment upon the lands abutting thereon. When by the provisions of this law the cost and expense of any local or public improvement may be defrayed in whole or in part by special assessment upon lands abutting upon and adjacent to or otherwise benefited by the improvement, such assessment may be made as in this chapter provided.

HISTORY: CL 1897, 2831;—CL 1915, 2704;—Am. 1921, p. 105, Act 69, Eff. Aug. 18;—CL 1929, 1613;—CL 1948, 68.1.

MUNICIPAL IMPROVEMENTS: See Compilers' § 123.1 et seq. and Compilers' § 141.1 et seq.

TOWNSHIP BOARDS: Power to contract for water supply and issuance of bonds, see Act 88 of 1919, as amended by Act 202 of 1927, being Compilers' § 41.391 et seq.

TAXES: Manner of assessment, see Compilers' §§ 211.10 et seq., 211.39 et seq. Board of review, see Compilers' § 211.28 et seq.

68.2 Board of assessors; members, oath, duties; disqualifying interest.

Sec. 2. There shall be a board of assessors in every village, consisting of 3 members, who shall be freeholders and electors in the village, to be appointed annually by the president by and with the consent of the council whose duty it shall be to make all special assessments. They shall take the constitutional oath of office. Their compensation shall be prescribed by the council. Special assessments, authorized by this act, shall be made by such board. If a member of the board shall be interested in any special assessment directed by the council, there shall be appointed some other person to act in his stead in making the assessment, who, for the purposes of that assessment, shall be a member of the board.

HISTORY: CL 1897, 2832;—CL 1915, 2705;—CL 1929, 1614;—CL 1948, 68.2.

68.3 Special assessment; resolution of council; expense, apportionment.

Sec. 3. When the council shall determine to make any public improvement and defray the whole or any part of the costs and expenses thereof by special assessment, they shall so declare by resolution, °slating the improvement, and what part or proportion of the expenses thereof shall be paid by special assessment, and what part, if any,

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from the general funds of the village, or from street district funds, and shall designate the district or lands and premises upon which the special assessments shall be levied.

HISTORY: CL 1897, 2833;—CL 1915, 2706;—CL 1929, 1615;—CL 1948, 68.3.

*NOTE: It is evident the word "slating" is a clerical error. The word should be "stating".

68.4 Special assessment; expense estimates; public examination; notice.

Sec. 4. Before ordering any public improvement, any part of the expense of which is to be defrayed by special assessment, the council shall cause estimates of the expense thereof to be made, and also plats and diagrams, when practicable, of the work and of the locality to be improved, and deposit the same with the clerk for public examination; and they shall give notice thereof and of the proposed improvement or work, and of the district to be assessed by publication for 2 weeks at least in 1 of the newspapers of the village, if any be published therein, or if not, by posting notices in 3 public places in the village, and of the time when the council will meet and consider any objections thereto.

HISTORY: CL 1897, 2834;—CL 1915, 2707;—CL 1929, 1616;—CL 1948, 68.4.

68.5 Special assessments; costs and expenses defrayable.

Sec. 5. The costs and expenses of any improvement which may be defrayed by special assessment shall include the costs of surveys, plans, assessments and costs of construction.

HISTORY: CL 1897, 2835;—CL 1915, 2708;—CL 1929, 1617;—CL 1948, 68.5;—Am. 1969, p. 106, Act 58, Imd. Eff. Jul. 21.

68.6 Special assessment; levy.

Sec. 6. Special assessments, to defray the estimated cost of any improvement, shall be levied or collected before the making of the improvement.

HISTORY: CL 1897, 2836;—CL 1915, 2709;—CL 1929, 1618;—CL 1948, 68.6.

68.7 Special assessment; apportionment.

Sec. 7. When any special assessment is to be made pro rata upon the lots and premises in any special district, according to the frontage or benefits, the council shall by resolution, direct the same to be made by the board of assessors, and shall state therein the amount to be assessed, and whether according to frontage or benefits, and describe or designate the lots and premises, or locality constituting the district to be assessed. Upon receiving such order and directions, the board of assessors shall make out an assessment roll, entering and describing therein all the lots, premises and parcels of land to be assessed, and the valuation thereof with the names of the persons, if known, chargeable with the assessments thereon, and shall levy thereon and against such persons the amount to be assessed, in the manner directed by the council and the provisions of this act, applicable to the assessment, and when such assessment is completed they shall report the same to the council. If the assessment is required to be according to the frontage, they shall assess to each lot or parcel of land such relative portion of the whole amount to be levied as the length and front of such premises abutting upon the improvement bears to the whole frontage of all the lots to be assessed, unless on account of the shape or size of any lot an assessment for a different number of feet would be more equitable. If the assessment is directed to be according to benefits, they shall assess upon each lot such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot from the improvement.

HISTORY: CL 1897, 2837;—CL 1915, 2710;—CL 1929, 1619;—CL 1948, 68.7.

68.8 Special assessment; report to council, filing; hearing; notice.

Sec. 8. When any special assessment shall be reported by the board of assessors to the council, as in this chapter directed, the same shall be filed in the office of the clerk, and numbered. Before adopting the assessment, the council shall cause notice to be published for 2 weeks at least in some newspaper of the village, if any be published

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therein, or if not, to be posted in 3 public places for the same length of time, of the filing of the same with the clerk, and designating a time and place when and where the council and board of assessors will meet to review the assessment and to hear any objections thereto.

HISTORY: CL 1897, 2838;—CL 1915, 2711;—CL 1929, 1620;—CL 1948, 68.8.

68.9 Review of assessment; confirmation certificate.

Sec. 9. At the time appointed for that purpose as aforesaid, the council and board of assessors shall meet, and there, or at some adjourned meeting, review the assessment and hear any objections thereto; and the council shall correct the same if necessary, and confirm it as reported or as corrected; or they may refer the assessment back to the board for revision, or annul it and direct a new assessment, in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the clerk shall endorse a certificate thereof upon the roll, showing the date of confirmation.

HISTORY: CL 1897, 2839;—CL 1915, 2712;—CL 1929, 1621;—CL 1948, 68.9.

68.10 Special assessment; conclusive.

Sec. 10. When any special assessment shall be confirmed by the council, it shall be final and conclusive.

HISTORY: CL 1897, 2840;—CL 1915, 2713;—CL 1929, 1622;—CL 1948, 68.10.

68.11 Special assessment; lien.

Sec. 11. All special assessments shall, from the date of the confirmation thereof, constitute a lien upon the respective lots or parcels of land assessed, and shall be a charge against the persons to whom assessed until paid.

HISTORY: CL 1897, 2841;—CL 1915, 2714;—CL 1929, 1623;—CL 1948, 68.11.

68.12 Special assessment; insufficiency; excess.

Sec. 12. Should any special assessment prove insufficient to pay for the improvement or work for which it was levied, and the expenses incident thereto, the council may, within the limitations prescribed for such assessments, make an additional pro rata assessment to supply the deficiency; and in case a larger amount shall have been collected than was necessary, the excess shall be refunded ratably to those by whom it was paid.

HISTORY: CL 1897, 2842;—CL 1915, 2715;—CL 1929, 1624;—CL 1948, 68.12.

68.13 Special assessment; invalidity; reassessment proceedings.

Sec. 13. Whenever any special assessment shall, in the opinion of the council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All the proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or any part thereof levied upon any premises in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment on said premises, and the reassessment shall to that extent be deemed satisfied.

HISTORY: CL 1897, 2843;—CL 1915, 2716;—CL 1929, 1625;—CL 1948, 68.13.

68.14 Special assessment; collection proceedings.

Sec. 14. When any special assessment shall be confirmed, and be payable as hereinbefore provided, the council may direct the assessment so made in the special assessment roll to be collected; and thereupon, the village clerk shall attach his warrant to a certified copy of said special assessment roll, therein commanding the village treasurer

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to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein; and in case any person named in said roll shall neglect or refuse to pay his assessment upon demand, then to levy and collect the same by distress and sale of the goods and chattels of such person; and return said roll and warrant, together with his doings thereon, within 60 days from the date of such warrant.

HISTORY: CL 1897, 2844;—CL 1915, 2717;—CL 1929, 1626;—CL 1948, 68.14.

68.15 Special assessment; levy, sale.

Sec. 15. Upon receiving said assessment roll and warrant, the treasurer shall proceed to collect the amounts assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the treasurer shall seize and levy upon any personal property found within the village or elsewhere within the county or within any adjoining county belonging to such person, and sell the same at public auction, first giving 6 days' notice of the time and place of such sale, by posting such notices in 3 of the most public places in the village or township where such property may be found. The proceeds of such sale, or so much thereof as may be necessary for that purpose, shall be applied to the payment of the assessment, and a percentage of 5 per centum upon the amount of the assessment for the costs and expenses of said seizure and sale, and the surplus, if any, shall be paid to the person entitled thereto.

HISTORY: CL 1897, 2845;—CL 1915, 2718;—CL 1929, 1627;—CL 1948, 68.15.

68.16 Sale proceeds; deposit to village treasury; entries on roll.

Sec. 16. The marshal shall pay the moneys, and all percentage collected by him, into the village treasury, and take the treasurer's receipt therefor and file the same with the clerk. The treasurer shall also make return of said assessment roll and warrant to the clerk according to the requirement of the warrant, and if any of the assessments in said roll shall be returned unpaid, the treasurer shall attach to his return a statement, verified by affidavit, containing a list of the persons delinquent, and a description of the lots and premises upon which the assessments remain unpaid, and the amount unpaid on each.

HISTORY: CL 1897, 2846;—CL 1915, 2719;—CL 1929, 1628;—CL 1948, 68.16.

68.17 Renewal of warrant; reassessment.

Sec. 17. Said warrant may be renewed from time to time by the clerk, if the council shall so direct, and for such time as they shall determine, and during the time of such renewal the warrant shall have the same force, and the treasurer shall perform the same duties and make the like returns as above provided. In case any assessment shall be finally returned by the treasurer unpaid, as aforesaid, the same may be transferred to and reassessed in the next annual village tax roll, in a column headed "special assessments," with interest included at the rate of 10 per cent per annum from the date of the confirmation of the assessment, and be collected and paid in all respects as provided for collecting the village taxes.

HISTORY: CL 1897, 2847;—CL 1915, 2720;—CL 1929, 1629;—CL 1948, 68.17.

68.18 Special assessment; collection by suit, evidence.

Sec. 18. At any time after a special assessment has become payable, the same may be collected by suit, in the name of the village, against the person assessed, in an action of assumpsit, in any court having jurisdiction of the amount. In every such action a declaration upon the common count for money paid shall be sufficient. The special assessment roll and a certified copy of the order or resolution confirming the same shall be prima facie evidence of the regularity of all the proceedings in making the assessment, and of the right of the village to recover judgment therefor.

HISTORY: CL 1897, 2848;—CL 1915, 2721;—CL 1929, 1630;—CL 1948, 68.18.

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68.19 Expense incurred by village; special assessment, report of account to council.

Sec. 19. When any expense shall be incurred by the village upon or in respect to any separate or single lot, parcel of land, or premises, which, by the provisions of this act, the council is authorized to charge and collect as a special assessment against the same, and not being of that class of special assessments required to be made pro rata upon several lots or parcels of land in an assessment district, an account of the labor or services for which such expense was incurred, verified by the officer or person performing the labor or services, with a description of the lot or premises upon or in respect to which the expense was incurred, and the name of the owner or persons chargeable therewith, shall be reported to the council in such manner as the council shall prescribe.

HISTORY: CL 1897, 2849;—CL 1915, 2722;—CL 1929, 1631;—CL 1948, 68.19.

68.20 Council to determine charge.

Sec. 20. The council shall determine what amount or part of every such expense shall be charged, and the persons, if known, against whom, and the premises upon which the same shall be levied as a special assessment; and as often as the council shall deem it expedient they shall require all of the several amounts so reported and determined, and the several lots or premises, and the persons chargeable therewith respectively, to be reported by the clerk to the board of assessors for assessment.

HISTORY: CL 1897, 2850;—CL 1915, 2723;—CL 1929, 1632;—CL 1948, 68.20.

68.21 Special assessment roll; proceedings.

Sec. 21. Upon receiving the report mentioned in the preceding section, the board of assessors shall make a special assessment roll, and levy as a special assessment therein upon each lot or parcel of land so reported to them and against the person chargeable therewith, if known, the whole amount or amounts of all the charges so directed to be levied upon each of such lots or premises respectively, and when completed they shall report the assessment to the council, and thereupon the same proceedings shall be had, and with like effect as is provided in this chapter in other cases of special assessments.

HISTORY: CL 1897, 2851;—CL 1915, 2724;—CL 1929, 1633;—CL 1948, 68.21.

68.22 Paving assessments; manner, interest; bonds; sinking fund; payment of contractors.

Sec. 22. Special assessment rolls to defray the cost of street paving shall be made in 5 parts or instalments, each part or instalment to contain a list of the lots or parcels constituting the special assessment district with the names of the owners or occupants of each lot or parcel, and 1/5th of the cost or expense of such improvement shall be assessed upon each 1 of said 5 parts or instalments, 1 of which shall become due and be collected each year, at such times as the council shall determine, with interest at a rate not exceeding 6 per cent per annum to be fixed by the council; but the whole assessment after confirmation may be paid in full, without interest at the time when the first instalment is due. The village council shall have power to issue bonds of the village bearing not to exceed 6 per cent interest to an amount not exceeding the assessment, and may, in its discretion, pledge the full faith and credit of the village for the payment of such bonds. Bonds for 2 or more improvements may be consolidated in a single issue. All payments made on the assessments shall be paid into and constitute a sinking fund for the payment of said bonds at maturity. Owners and occupants paying by instalments shall pay the full amount of the interest on each instalment down to the maturity thereof, but may pay the principal and such interest before maturity. Contractors for the laying of street paving may be required to take their pay in street paving bonds, and such bonds shall in no event be sold or otherwise disposed of at less

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than their par value. The village council may issue similar bonds, running 1, 2, 3, 4 and 5 years, to defray that portion of the cost and expense of any street paving chargeable to street intersections, or to lands belonging to the village, school buildings or other public building or grounds, including such portion of said cost or expense as the village council may have decided to pay from the general highway fund or the street district fund.

HISTORY: Add. 1899, p. 55, Act 39, Imd. Eff. April 18;—Am. 1915, p. 223, Act 137, Eff. Aug. 24;—CL 1915, 2725;—Am. 1917, p. 738, Act 297, Imd. Eff. May 10;—Am. 1919, p. 620, Act 346, Eff. Aug. 14;—Am. 1929, p. 180, Act 71, Eff. Aug. 28;—CL 1929, 1634;—CL 1948, 68.22.

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CHAPTER IX—FINANCE AND TAXATION.

69.1 Authority of council to levy taxes; general expense.
69.2 Authority of council to levy taxes; general highway fund.
69.3 Repealed.
69.4 Authority of council to levy taxes; cemeteries, tax limit.
69.5 Authority of council to levy taxes; street improvements; special assessment proceeds, use.
69.6 Authority of council to levy taxes; funded debt, sinking fund.
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69.24 Disbursements; manner.
69.25 Loans; yearly limit; bonds, issuance, contents, record; replacement bonds; referendum, procedure; yearly tax.
69.26 Bond to contain statement of purpose; improper use, penalty.

69.1 Authority of council to levy taxes; general expense.

Sec. 1. The council shall have authority to raise, by general tax upon the real and personal property liable to taxation in said village (exclusive of taxes for highway and street purposes and not otherwise provided for in this act), such sum not exceeding in any 1 year 1 ¼ of 1 per cent of the assessed value of such property, as they shall deem necessary for the purpose of defraying the general expenses and liabilities of the corporation, and to carry into effect the powers in this act granted. The moneys so raised shall constitute a "general fund."

HISTORY: CL 1897, 2852;—CL 1915, 2726;—CL 1929, 1635;—CL 1948, 69.1.

TAXATION: Manner of tax assessment, see Compilers' §§ 211.10 et seq., 211.39 et seq. Board of review, see Compilers' § 211.28 et seq.

69.2 Authority of council to levy taxes; general highway fund.

Sec. 2. The council shall also have power to raise, by general tax upon all real estate and personal property aforesaid, such sum not exceeding 1/2 of 1 per cent of the assessed value of said property, as they shall deem necessary for highway and street purposes. Such moneys shall constitute a "general highway fund," and shall be expended exclusively for working and improving the highways, streets, lanes, and alleys of the village and for the construction and repair of bridges therein.

HISTORY: CL 1897, 2853;—CL 1915, 2727;—CL 1929, 1636;—CL 1948, 69.2.

69.3 Repealed. 1958, p. 123, Act 116, Eff. Sep. 13.

Section provided for levy and collection of poll tax.

69.4 Authority of council to levy taxes; cemeteries, tax limit.

Sec. 4. The council may for the purpose of purchasing grounds for a cemetery, raise by general tax a sum not exceeding in any 1 year, 1/4 of 1 per cent of the assessed value of the property in the village: Provided, That the whole amount which may be so raised for the purchase of grounds for such purpose, shall not at any time exceed 5,000 dollars. The council may, for the purpose of maintaining the cemetery, raise by general tax a sum not exceeding in any 1 year, 1/10 of 1 per cent of the assessed value of the property in the village.

HISTORY: CL 1897, 2855;—CL 1915, 2729;—Am. 1923, p. 249, Act 157, Eff. Aug. 30;—CL 1929, 1638;—CL 1948, 69.4.

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69.5 Authority of council to levy taxes; street improvements; special assessment proceeds, use.

Sec. 5. The council may raise by special assessment upon lands in sewer districts and special assessment districts, for the purpose of defraying the cost and expense of grading, paving, planking, and graveling streets, and for constructing drains and sewers, and for making other local improvements, charged upon the lands in the district in proportion to frontage or benefits, such sums as they shall deem necessary to defray the costs of such improvements. Moneys raised by special assessments to pay the cost of any such local improvement shall be held as a special fund to pay such cost and expense, or to repay moneys borrowed therefor.

HISTORY: CL 1897, 2856;—CL 1915, 2730;—CL 1929, 1639;—CL 1948, 69.5;—Am. 1969, p. 108, Act 58, Imd. Eff. Jul. 21.

69.6 Authority of council to levy taxes; funded debt, sinking fund.

Sec. 6. The council may also raise annually such further sum, not exceeding 5 mills on the dollar of the assessed value of the property in the village, as may be needed for an interest and sinking fund to pay the funded debt of the village, if any, and the interest thereon. The money so raised shall be used for the purpose aforesaid and for no other.

HISTORY: CL 1897, 2857;—CL 1915, 2731;—CL 1929, 1640;—CL 1948, 69.6.

69.7 Annual audit by council; financial statement, filing, publication.

Sec. 7. Within 2 weeks next preceding any annual village election, the council shall audit and settle the accounts of the treasurer and other officers of the village, and so far as practicable, of all persons having claims against the village, and shall make out a statement in delail [detail] of the receipts and expenditures of the corporation during the preceding year, which statement shall distinctly show the amount of all taxes raised during the year for all purposes, and the amount raised for each fund; the amount levied by special assessment, and the amount collected on each; also the items and amounts received from all other sources during the year, also the several items of all expenditures made during the year, and the objects thereof, classifying the same for each purpose separately, and containing such other information as shall be necessary to a full understanding of the financial concerns of the village. Said statement, signed by the president and clerk, shall be filed in the office of the clerk, and a copy thereof published in a newspaper of the village at least 7 days previous to the next annual village election, if one is published therein.

HISTORY: CL 1897, 2858;—CL 1915, 2732;—CL 1929, 1641;—CL 1948, 69.7.

69.8 Village taxes; annual assessment roll; contents.

Sec. 8. The assessor of every village subject to the provisions of this act shall, in each year, at and within the same time as required by the general laws of this state for the assessment of property in the townships of this state, make an assessment roll containing a description of all the real property and the aggregate amount of all the personal property liable under the laws of the state to taxation in the village, and the name of the owner, agent or person liable to pay taxes therein if known, and the names of all persons liable to pay poll tax in the village, and shall set down in such roll the valuation of such property, at its value, as determined by the assessor of the township wherein the property is located, placing the value of the real and personal property in separate columns; and in so doing he shall conform to and be governed by the provisions of law governing supervisors of townships performing like services, unless otherwise in this act provided: Provided, That whenever in any year it shall not be neces-

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sary to raise any money by taxation in any village, the council of such village may so determine by resolution, and when so determined by the council they shall certify such determination to the assessor, and such assessor shall not make any assessment roll of property in such village for such year.

HISTORY: Am. 1897, p. 66, Act 56, Imd. Eff. Mar. 31;—CL 1897, 2859;—CL 1915, 2733;—CL 1929, 1642;—Am. 1941, p. 46, Act 49, Eff. Jan. 10, 1942;—CL 1948, 69.8;—Am. 1967, p. 103, Act 84, Eff. Nov. 2.

69.9 Village taxes; review notice.

Sec. 9. The board of review of the township wherein the properties of the village are located, shall review the assessment roll in the same manner, at the same time and place, and pursuant to the same processes as provided in sections 28 to 33 of Act No. 206 of the Public Acts of 1893, as amended, being sections 211.28 to 211.33 of the Compiled Laws of 1948.

HISTORY: CL 1897, 2860;—CL 1915, 2734;—CL 1929, 1643;—CL 1948, 69.9;—Am. 1967, p. 103, Act 84, Eff. Nov. 2.

69.10, 69.11 Repealed. 1967, p. 103, Act 84, Eff. Nov. 2.

Sections related to board of review of assessments; powers and duties; and changes in tax roll.

69.12 Annual assessment roll; certification of board of review.

Sec. 12. Immediately after the review of the assessment roll, the secretary of the board of review shall file the assessment roll with the council.

HISTORY: CL 1897, 2863;—CL 1915, 2737;—CL 1929, 1646;—CL 1948, 69.12;—Am. 1967, p. 103, Act 84, Eff. Nov. 2.

69.13 Assessment roll; council's certificate to assessor; contents.

Sec. 13. The council, after an examination of the assessment roll, shall certify the same to the assessor, together with the amount which they require to be raised by general tax, for highway and other general purposes; and all amounts of special assessments which they require to be reassessed upon any lands, premises, or against any person, with a particular description of the lands and property to be reassessed, and the amounts to be reassessed upon each parcel of land, and the name or names, so far as known, of the persons chargeable with such tax, which certificate, endorsed upon or annexed to the roll, shall be signed by the president and clerk.

HISTORY: CL 1897, 2864;—CL 1915, 2738;—CL 1929, 1647;—CL 1948, 69.13.

69.14 Assessment roll; tax apportionment by assessor.

Sec. 14. Upon receiving the assessment roll, with the certificate of the several amounts to be raised thereon, as provided in the preceding section, the assessor shall proceed to estimate, apportion, and set down in columns opposite to the several valuations of real and personal property on the roll, in proportion to the individual and particular estimates and valuations, the respective sums in dollars and cents, apportionable to each; placing the general fund taxes and all general taxes, except those for highway purposes, in 1 column; the general highway taxes in another column; the street district taxes, if any, in a third column; all special assessment taxes in a fourth column; and shall also set down in another column on the roll 1 dollar opposite the name of every person liable to pay a poll-tax in the village; and the total of all taxes assessed to each valuation shall be carried into the last column of the roll. The assessor shall also foot up the amounts carried to the last column, as aforesaid, and certify upon the roll the aggregate amounts of the taxes levied therein.

HISTORY: CL 1897, 2865;—CL 1915, 2739;—CL 1929, 1648;—CL 1948, 69.14.

69.15 Assessment roll delivered to treasurer; collection warrant, renewal.

Sec. 15. After extending the taxes as aforesaid, and not later than the third Monday of June in each year or in case the council shall have fixed by resolution, in accordance with the proviso in section 8 of this chapter, not later than the first Monday in May the assessor shall cause said assessment roll, certified under his hand, to be delivered to the treasurer, with the warrant of the president of the village annexed thereto, directing and requiring him to collect from the several persons named in said roll the several

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sums mentioned therein opposite to their respective names, as a tax or assessment, and authorizing him, in case any person named therein shall neglect or refuse to pay such sums, to levy the same by distress and sale of his, her or their goods and chattels, together with the costs and charges of such distress and sale, and directing him to collect all taxes by a certain day therein to be named, not less than 30 nor more than 50 days from the date of said warrant. The president may renew said warrant from time to time, by order of the council, and for such time as the council shall direct: Provided, That the time shall not be extended later than the third Monday of October in any year.

HISTORY: Am. 1897, p. 66, Act 56, Imd. Eff. March 31;—CL 1897, 2866;—CL 1915, 2740;—CL 1929, 1649;—CL 1948, 69.15.

69.16 Taxes; treasurer to collect.

Sec. 16. Immediately upon receiving the tax roll, with the warrant thereto annexed, as provided in section 15 the treasurer shall proceed to collect the taxes levied therein according to the direction of said warrant, together with such percentage thereon for collection fees as shall be authorized by the council.

HISTORY: CL 1897, 2867;—CL 1915, 2741;—CL 1929, 1650;—CL 1948, 69.16.

69.17 Taxes; levy, sale; suit.

Sec. 17. In case any person shall neglect or refuse to pay any tax imposed upon any real or personal property belonging to him, as aforesaid, the treasurer shall levy the same by distress and sale of the goods and chattels of the said person liable to pay the same, wherever such goods and chattels may be found, either in said village or elsewhere in the county where such village is located, or in any adjoining county, first giving public notice of such sale in the manner and for the time required by law in case of such sales made by township treasurers, and for such purpose and for the collection of the taxes aforesaid, the treasurer may bring suit therefor, and shall have all the powers and perform the like duties, so far as applicable, as are conferred upon or required of township treasurers, in the collection of taxes levied in townships.

HISTORY: CL 1897, 2868;—CL 1915, 2742;—CL 1929, 1651;—CL 1948, 69.17.

69.18 Taxes; unpaid taxes, return; collection; reports; lien.

Sec. 18. Within 1 week after the expiration of the time limited in the warrant for the collection of the taxes levied in said roll, or within 1 week after the time to which said warrant may have been renewed or extended, if the treasurer has been unable to collect any of the taxes on his roll on real property, it shall be his duty to return all such unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers. The taxes thus returned shall be collected in the same manner as other taxes returned to such county treasurer are collected under the provisions of the general tax laws of the state, and the same rate of interest and amount of charges shall be collected thereon, and all taxes upon lands so returned upon lands as delinquent shall be and remain a lien thereon until paid: Provided, That the county treasurer shall at the time that he makes his return to the auditor general of delinquent taxes assessed under the general tax law, also make a return of all village taxes that were returned delinquent to his office and remaining unpaid on the first day of March of the year in which the return is made.

HISTORY: CL 1897, 2869;—Am. 1915, p. 228, Act 140, Eff. Aug. 24;—CL 1915, 2743;—CL 1929, 1652;—CL 1948, 69.18.

COLLECTION: See Compilers' § 211.45 et seq.

DELINQUENT TAXES: See Compilers' § 211.55 et seq.

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69.19 Tax sales; proceeds, deposit with county treasurer.

Sec. 19. Moneys received for such sale shall be paid over to the village treasurer. All of the provisions of the general tax law relative to the sale and redemption of lands returned for delinquent taxes shall apply to the sale and redemption of lands returned for delinquent taxes assessed under the provisions of this act.

HISTORY: Am. 1897, p. 97, Act 88, Eff. Aug. 30;—CL 1897, 2870;—CL 1915, 2744;—CL 1929, 1653;—CL 1948, 69.19.
DELINQUENT TAX LANDS: See Compilers' § 211.60 et seq.

69.20 Tax on personalty; collection suit.

Sec. 20. Whenever the treasurer shall be unable to collect any tax assessed upon personal property in the village it shall be lawful for the treasurer of the village to bring suit, in the name of the village, for the recovery thereof, against the person or persons against whom the tax was assessed, before any court of competent jurisdiction, and to take and use all lawful means provided by law for the collection of debts to enforce the payment of such tax; and in such cases all the provisions of law applicable to suits and the evidence therein, brought by township treasurers in the name of their township for such purposes, shall apply.

HISTORY: CL 1897, 2871;—CL 1915, 2745;—CL 1929, 1654;—CL 1948, 69.20.
TOWNSHIP TREASURER: Suit by township treasurer, see Compilers' § 211.47.
COLLECTION BY SUIT: See Compilers' § 69.17.

69.21 Taxes; money borrowed in anticipation.

Sec. 21. The council may borrow, in any year, in anticipation of the collection of taxes for the same year, such sum, not exceeding 1/4 of the tax, as may be necessary to defray current expenses. The money so borrowed shall be so repaid from such tax when collected. And they may in like manner borrow, in anticipation of the collection of special assessments actually made for any local improvement, such sum, not exceeding the assessment, as may be necessary for the prosecution or completion of the improvement; and the assessment, when collected, shall be applied in payment of the loan.

HISTORY: CL 1897, 2872;—CL 1915, 2746;—CL 1929, 1655;—CL 1948, 69.21.

69.22 Tax or authorized loan by elector of village, limit; net bonded indebtedness, limit, calamities, computation; deductions.

Sec. 22. (1) Should any greater amount be required in any year for the purchase of grounds for erecting public buildings, or for other necessary corporate purposes than can be raised by the council under the foregoing provisions of this chapter, such amount may be raised by tax or loan, or partly by tax and partly by loan, if authorized by a majority of the electors voting upon the question at an annual or special village election. The amount that may be voted or raised, by tax, in any year, under the provisions of this section, shall not exceed 2% of the assessed valuation of the real and personal property within the village, as shown by the last preceding assessment roll of the village.

(2) The amount which may be voted or raised by bonds shall not cause the net bonded indebtedness incurred for all public purposes at any time to exceed 10% of the assessed valuation of the real and personal property in the village subject to taxation as shown by the last preceding assessment roll of the village. In case of fire, flood or other calamity, the legislative body may borrow for the relief of the inhabitants of the village and for the preservation of municipal property, a sum of not to exceed 1/4 of 1% of the assessed valuation of the real and personal property in the village, subject to taxation as shown by the last preceding assessment roll of the village, which shall be due in not more than 3 years, even if such loan would cause the indebtedness of the village to exceed the foregoing limitation. In computing the net bonded indebtedness, bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the village, mortgage bonds which are secured only by mortgage

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on the property, revenues or franchise of a public utility shall not be included and moneys on hand in a fund pledged for the retirement of principal only of any outstanding bonds included in the net bonded indebtedness, including securities on hand representing investments of those moneys in any such fund, shall also be deducted from the amount of the bonded indebtedness.

HISTORY: CL 1897, 2873;—CL 1915, 2747;—CL 1929, 1656;—CL 1948, 69.22;—Am. 1952, p. 200, Act 168, Eff. Sep. 18;—Am. 1969, p. 122, Act 65, Eff. Mar. 20, 1970.

69.22a Public utility; franchise.

Sec. 22a. Whenever a village is authorized to acquire or operate any public utility, it may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by this act: Provided, That such mortgage bonds issued beyond the limit of general indebtedness prescribed by this act shall not impose any liability upon the village, but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same; which franchise shall in no case extend for a longer period than 20 years from the date of the sale of such utility and franchise on foreclosure.

HISTORY: Add. 1952, p. 200, Act 168, Eff. Sep. 18.

69.23 Tax or authorized loan by elector of village, limit; resolution, publication; vote.

Sec. 23. The proposition to raise such additional amount shall be submitted to a vote of the electors by an ordinance or resolution of the council, distinctly stating the purpose of the expenditure for which said money is required, the amount proposed to be raised therefor, and whether by tax or loan, and appointing the time when the vote will be taken. Such ordinance or resolution shall be published at least twice in a newspaper in the village, if any is printed therein, and copies of the resolution or ordinance shall be posted in 6 of the most public places in the village at least 2 weeks before the election at which the vote is to be taken. Such vote shall be by ballot; the contents of the ballots shall be prescribed in the ordinance or resolution submitting the proposition to the electors.

HISTORY: CL 1897, 2874;—CL 1915, 2748;—CL 1929, 1657;—CL 1948, 69.23.

69.24 Disbursements; manner.

Sec. 24. No money shall be drawn from the treasury except in pursuance of the authority and appropriation of the council, and upon the warrant of the clerk, countersigned by the president. Such warrant shall specify the fund from which it is payable, and shall be paid from no other fund. No warrant shall be drawn upon the treasury after the fund from which it should be paid has been exhausted. Any such warrant shall be void as against the village.

HISTORY: CL 1897, 2875;—CL 1915, 2749;—CL 1929, 1658;—CL 1948, 69.24.

69.25 Loans; yearly limit; bonds, issuance, contents, record; replacement bonds; referendum, procedure; yearly tax.

Sec. 25. No loans shall be made by the council or by its authority in any year, exceeding the amounts prescribed in this act. For any loans lawfully made, the bonds of the village may be issued bearing a legal rate of interest. A record showing the dates, numbers, and amounts of all bonds issued, and when due, shall be kept by the clerk. When deemed necessary by the council to extend the time of payment, new bonds may be issued in place of former bonds falling due, in such manner as merely to change, but not increase the indebtedness of the village. Each bond shall show upon its face the class of indebtedness to which it belongs, and from what fund it is payable. The village council shall have power to issue bonds for the purpose of funding the existing floating indebtedness of the village: Provided, That a majority of the legal voters of such village, voting upon such proposition, at a general or special election called by

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the council for that purpose shall vote in favor thereof. The question of issuing said funding bonds shall be submitted to the legal voters of said village by giving due notice thereof by causing the date, place and object of such election to be stated in written or printed notices to be posted in 5 public places in said village at least 20 days before the time fixed by said council for such election and by publishing the same in a newspaper published and circulated in said village, or if none be published in said village, then in some newspaper published in the same county which is circulated in such village, at least 2 weeks before the time of such election, which notice shall state the amount of money proposed to be raised by such funding bonds.

The vote upon such proposition shall be by ballot either printed or written or partly printed or partly written and such ballots shall be in the following form:

Proposition to issue village funding bonds. Yes. ☐
Proposition to issue village funding bonds. No. ☐

The election shall be conducted and the votes canvassed in all respects as in other village elections. Said funding bonds shall be issued by the village council in denominations not exceeding 1,000 dollars each at a rate of interest not exceeding 5 per centum per annum, payable semi-annually and for a period not exceeding 25 years, as the village council shall by resolution direct, and no such funding bonds shall be used or negotiated at less than their par value and shall be made payable in substantially equal serial annual installments within said 25 year period. In case any bonds are issued under the provision of this act, it shall be the duty of the village council to raise in each year by tax upon the taxable property of such village such sums of money as shall be sufficient to pay the amount of said bonds and the interest thereon as fast as the same shall become due.

HISTORY: CL 1897, 2876;—CL 1915, 2750;—Am. 1917, p. 81, Act 52, Imd. Eff. April 13;—CL 1929, 1659;—CL 1948, 69.25.

69.26 Bond to contain statement of purpose; improper use, penalty.

Sec. 26. Every bond issued by any village, shall contain on its face a statement specifying the object for which the same is issued, and if issued for the purpose of raising money for any public improvement the particular public improvement shall also be specified on the face of such bond, and it shall be unlawful for any officer of such village to sign or issue any such bond without such matters are set forth on the face of the same as aforesaid, or to use such bonds or the proceeds from the sale thereof, for any other object than that mentioned on the face of such bond, and any such officer who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not exceeding 1,000 dollars, or by imprisonment in the county jail for a period not exceeding 1 year, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1897, 2877;—CL 1915, 2751;—CL 1929, 1660;—CL 1948, 69.26.

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CHAPTER X—FIRES AND FIRE DEPARTMENT.

70.1 Fire regulations; enforcement; fire department.
70.2 Fire equipment; water supply.
70.3 Necessary buildings.
70.4 Chief; appointment, duties.
70.5 Chief; commanded aid; bystanders; refusal penalty.
70.6 Fire wardens; appointment, duties.
70.7 Restricted construction districts.
70.8 Restricted construction districts; dangerous trades and user of buildings, regulation.
70.9 Restricted construction districts; violation.
70.10 Fire employees; compensation, injuries.
70.11 Authorized razing of buildings; damages; suit, procedure.
70.12 Water craft on navigable streams; regulation.

70.1 Fire regulations; enforcement; fire department.

Sec. 1. The council shall have power to enact such ordinances and establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires and to protect the property and persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department; to organize and maintain fire companies; to employ and appoint firemen; to make and establish rules and regulations for the government of the department, the employes, firemen and officers thereof; and for the care and management of the engines, apparatus, property, and buildings pertaining to the department.

HISTORY: CL 1897, 2878;—CL 1915, 2752;—CL 1929, 1661;—CL 1948, 70.1.

70.2 Fire equipment; water supply.

Sec. 2. The council may purchase and provide suitable fire engines and apparatus for the extinguishment of fires; and may sink wells and construct cisterns and reservoirs in the streets, public grounds and other suitable places in the village, and make all necessary provisions for a convenient supply of water for the use of the department.

HISTORY: CL 1897, 2879;—CL 1915, 2753;—CL 1929, 1662;—CL 1948, 70.2.

70.3 Necessary buildings.

Sec. 3. The council may also provide or erect all necessary buildings for keeping the engines, carriages, teams and fire apparatus of the department.

HISTORY: CL 1897, 2880;—CL 1915, 2754;—CL 1929, 1663;—CL 1948, 70.3.

70.4 Chief; appointment, duties.

Sec. 4. The council may provide by ordinance or resolution for the appointment of a chief of the fire department who shall be subject to the direction of the president and the regulations of the council; shall have the supervision and direction of the department and the care and management of the fire engines, apparatus and property.

HISTORY: CL 1897, 2881;—CL 1915, 2755;—CL 1929, 1664;—CL 1948, 70.4.

70.5 Chief; commanded aid; bystanders; refusal penalty.

Sec. 5. The chief of the fire department, or other officer acting as such, may command any person present at a fire to aid in the extinguishment thereof, and to assist in the protection of property thereat. If any person shall wilfully disobey any such lawful requirement or other lawful order of any such officer he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a period not exceeding 90 days, or by a fine not exceeding 100 dollars, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1897, 2882;—CL 1915, 2756;—CL 1929, 1665;—CL 1948, 70.5.

70.6 Fire wardens; appointment, duties.

Sec. 6. The council may provide by ordinance for the appointment of, and may appoint such number of fire wardens as may be deemed necessary; and for the examination by them from time to time, of the stoves, furnaces and heating apparatus and de-

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vices in all dwellings, buildings, and structures within the village, and in all places where combustible or explosive substances are kept, and to cause all such as are unsafe with respect to fire, to be put in a safe condition.

HISTORY: CL 1897, 2883;—CL 1915, 2757;—CL 1929, 1666;—CL 1948, 70.6.

70.7 Restricted construction districts.

Sec. 7. The council may prescribe by ordinance from time to time, limits or districts within incorporated villages within which wooden buildings and structures shall not be erected, placed, or enlarged, and to direct the manner of constructing buildings within such district, with respect to protection against fire, and the material of which the outer walls and roofs shall be constructed.

HISTORY: CL 1897, 2884;—CL 1915, 2758;—Am. 1927, p. 454, Act 230, Eff. Sept. 5;—CL 1929, 1667;—CL 1948, 70.7.

70.8 Restricted construction districts; dangerous trades and user of buildings, regulation.

Sec. 8. The council may also prohibit within such places or districts as they shall deem expedient, the location of shops, the prosecution of any trade or business, the keeping of lumber yards, and the storing of lumber, wood, or other easily inflammable material in open places, when, in the opinion of the council, the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils, and other combustible and explosive substances, and the use of lights in buildings, and, generally, may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires.

HISTORY: CL 1897, 2885;—CL 1915, 2759;—CL 1929, 1668;—CL 1948, 70.8.

70.9 Restricted construction districts; violation.

Sec. 9. Every building or structure which may be erected, placed, enlarged, or kept, in violation of any ordinance or regulation lawfully made for the prevention of fires, is hereby declared to be a nuisance, and may be abated or removed by the direction of the council.

HISTORY: CL 1897, 2886;—CL 1915, 2760;—CL 1929, 1669;—CL 1948, 70.9.

70.10 Fire employees; compensation, injuries.

Sec. 10. The officers, firemen, and *employ'es of the department shall receive such compensation as the council may prescribe, and during their term of service shall be exempt from serving on juries. The council may provide suitable compensation for any injury which any fireman may receive to his person or property, in consequence of the performance of his duty at any fire.

HISTORY: CL 1897, 2887;—CL 1915, 2761;—CL 1929, 1670;—CL 1948, 70.10.

*NOTE: The word "employ'es" should be "employes".

70.11 Authorized razing of buildings; damages; suit, procedure.

Sec. 11. The chief in charge of the department at any fire, with the concurrence of the president or any 2 trustees, may cause any building to be pulled down or destroyed, when deemed necessary in order to arrest the progress of the fire. Whenever any building is so pulled down or destroyed, any person having an interest in such building may present his claim for damages to the council of such village, and it shall thereupon be the duty of the council to pay such claimant such damages as may be just under all the circumstances, taking into consideration the fact whether or not such loss would probably have occurred to such building if it had not been pulled down or destroyed, and whether the same was insured or not. If the council and such claimant shall not be able to agree upon the amount of damages to be paid such claimant, then the amount of such damages shall be ascertained by the appraisal of a jury to be selected in the same manner as in cases of a jury to appraise damages for taking private property for public use. Such jury may visit the premises and may hear all the proofs in the case, and shall allow such claimant such amount of damages as they may deem

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proper under all the circumstances, as above stated. If such jury shall not be able to agree, a new jury shall be empaneled as above provided until a jury has been obtained that shall agree, and the council shall pay such claimant the amount of damages fixed by such jury. There shall be no appeal from the verdict of such jury either by the village or any claimant.

HISTORY: CL 1897, 2888;—CL 1915, 2762;—CL 1929, 1671;—CL 1948, 70.11.
CONDEMNATION: See Compilers' § 73.1 et seq.

70.12 Water craft on navigable streams; regulation.

Sec. 12. The council of any village located upon any of the navigable waters of the state may by ordinance prescribe such regulations to be observed by owners, masters and employes of steamboats and water craft as may be necessary for the prevention of fires in the harbor and to prevent the communication of fire from such boats and craft, and may prescribe in such ordinances the manner of collecting any penalties imposed thereby.

HISTORY: CL 1897, 2889;—CL 1915, 2763;—CL 1929, 1672;—CL 1948, 70.12.

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CHAPTER XI—WATER WORKS.

71.1 Water works, filtration plant; establishment, maintenance.
71.2 Water works, filtration plant; authorized acquisitions, construction, maintenance.
71.3 Council's borrowing power; limit, payment; bonds, issuance, terms.
71.4 Council's borrowing power; estimate; referendum, exception; repair limit.
71.5 Private connections; manner, permit; repairs at owner's expense.
71.6 Water rates; ordinance, terms.
71.7 Water works; ordinances.
71.8 Water works; location outside corporate limits, control by council.
71.9 Water works; use of street or highway.
71.10 Water works; condemnation.
71.11 Water supply contract; user of streets, wharves, public grounds.

71.1 Water works, filtration plant; establishment, maintenance.

Sec. 1. Any village having a resident population of 200 or over shall have authority to purchase or construct and maintain water works, for the introduction of water into the village and supplying the village and inhabitants thereof with pure and wholesome water, for the extinguishment of fires, the ordinary and extraordinary uses of the inhabitants thereof and for such other purposes as the council may prescribe; and may also construct and maintain a filtration plant for the purification of the water supply of the village.

HISTORY: CL 1897, 2890;—CL 1915, 2764;—Am. 1917, p. 72, Act 43, Eff. Aug. 10;—Am. 1917, p. 169, Act 94, Imd. Eff. April 17;—CL 1929, 1673;—Am. 1937, p. 868, Act 349, Imd. Eff. Aug. 5;—CL 1948, 71.1.

SANITATION: Supervision and regulation by department of health, see Compilers' § 325.201 et seq.

WATER SUPPLY: Power to furnish outside territorial limits, see Act 34 of 1917, being Compilers' § 123.141 et seq.

71.2 Water works, filtration plant; authorized acquisitions, construction, maintenance.

Sec. 2. The village may acquire, purchase, erect and maintain such reservoirs, canals, acqueducts [sic], sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes and other apparatus, appurtenances and machinery, and may acquire, purchase, appropriate and own such grounds, real estate, rights and privileges as may be necessary and proper for the securing, constructing, rebuilding, repairing, extending and maintenance of such water works or filtration plants.

HISTORY: CL 1897, 2891;—Am. 1915, p. 270, Act 158, Imd. Eff. May 7;—CL 1915, 2765;—Am. 1917, p. 170, Act 94, Imd. Eff. April 17;—CL 1929, 1674;—CL 1948, 71.2.

71.3 Council's borrowing power; limit, payment; bonds, issuance, terms.

Sec. 3. It shall be lawful for any village, subject to the provisions of this act, to borrow any sum of money, that will not make the total indebtedness of such village greater than 10 per cent of the assessed value of the property in said village, as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing, constructing, repairing, rebuilding, extending and maintaining water works, or filtration plants as provided in the 2 preceding sections, and for the payment of any indebtedness incurred by the village in purchasing, constructing, repairing, rebuilding, extending and maintaining water works or filtration plants. The council shall have the power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter and to issue bonds of the village therefor. All bonds issued under the provisions of this act shall be made to mature serially in such installments that the first payment shall be due not more than 3 years after the date of issue and that the total amount of principal and interest payable in any year thereafter shall not exceed the amount payable in the preceding year. The rate of interest on such bonds shall not exceed 6 per cent per annum. Such bonds shall not be sold for less than their par value: Provided, That the total amount expended for the purchasing, constructing, repairing, rebuilding, extending and maintaining such water works or filtration plants, or for the payment of any indebtedness incurred by the village in purchasing, constructing, repairing, rebuilding, extending and maintaining such

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water works or filtration plants shall not exceed the amount of the estimate of expense provided for in section 4 of this chapter.

HISTORY: CL 1897, 2892;—Am. 1915, p. 270, Act 158, Imd. Eff. May 7;—CL 1915, 2766;—Am. 1917, p. 170, Act 94, Imd. Eff. April 17;—Am. 1925, p. 144, Act 105, Imd. Eff. April 30;—CL 1929, 1675;—CL 1948, 71.3.

MUNICIPAL OBLIGATIONS: Regulation of, see Act 202 of 1943, being Compilers' § 131.1 et seq.

71.4 Council's borrowing power; estimate; referendum, exception; repair limit.

Sec. 4. Before any money shall be borrowed, appropriated, raised or expended for the purchase, construction, repairing, rebuilding or extending of water works or filtration plants in any village, or for the payment of any indebtedness incurred by the village, in purchasing, constructing, repairing, rebuilding, extending and maintaining water works or filtration plants, the council shall cause to be made an estimate of the expense thereof. The question of raising the amount required for such purpose or purposes and of the amount required to pay any indebtedness incurred by the village for the purchasing, constructing, repairing, rebuilding, extending or maintaining of water works or filtration plants in the village, shall be submitted to the electors of the village at its annual election or at a special election called for that purpose by the council as provided in this act, and shall be determined as a majority of the electors voting at such election shall decide. After water works or filtration plants have been purchased or constructed in a village by virtue of any provision of this act, the council may then raise and expend in making repairs or alterations or in extending such works, such sum as it may see fit without submitting the question to the electors of the village, but the sum to be raised for such purpose shall be included in and shall not increase the total amount which by the provision of section 1, chapter 9 of this act, the council is authorized to raise.

HISTORY: Am. 1897, p. 74, Act 63, Eff. Aug. 30;—CL 1897, 2893;—Am. 1915, p. 271, Act 158, Imd. Eff. May 7;—CL 1915, 2767;—Am. 1917, p. 170, Act 94, Imd. Eff. Apr. 17;—CL 1929, 1676;—CL 1948, 71.4;—Am. 1969, p. 123, Act 65, Eff. Mar. 20, 1970.

71.5 Private connections; manner, permit; repairs at owner's expense.

Sec. 5. The connecting or supplying pipes, leading from buildings or yards to the distributing pipes, shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from the council. All such connecting or supply pipes shall be constructed and connected in the manner prescribed by ordinance.

HISTORY: CL 1897, 2894;—CL 1915, 2768;—CL 1929, 1677;—CL 1948, 71.5.

71.6 Water rates; ordinance, terms.

Sec. 6. The council shall establish a scale of rates to be charged and paid for supply of water, to be called water rates, and which rates shall be appropriate to different classes of buildings in the village, with reference to their dimension, value, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns, and all other buildings, establishments and trades, yards, number of families or occupants or consumption of water, as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rates; and the council may prescribe by ordinance, when and to whom such water rates shall be paid, and what steps shall be taken to enforce payment thereof, and may provide, in case of non-payment, that the supply of water may be shut off or stopped as to any person or persons neglecting or refusing to make such payment.

HISTORY: CL 1897, 2895;—CL 1915, 2769;—CL 1929, 1678;—CL 1948, 71.6.

71.7 Water works; ordinances.

Sec. 7. The council may enact such ordinances, and adopt such resolutions, as may be necessary for the care, protection, preservation, and control of the water works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected

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therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the construction, management and control of such water works.

HISTORY: CL 1897, 2896;—CL 1915, 2770;—CL 1929, 1679;—CL 1948, 71.7.

71.8 Water works; location outside corporate limits, control by council.

Sec. 8. When the council shall deem it for the public interest, such water works may be purchased or may be constructed and maintained beyond the corporate limits of the village; and in such case the council shall have authority to enforce beyond the corporate limits of the village, within the county or counties in which such village is situated, and over the buildings, machinery, and other property belonging to and connected with such water works, in the same manner and to the same extent as if they, or it, were within the village, all such ordinances and police regulations as may be necessary for the care, protection, preservation, management, and control thereof.

HISTORY: CL 1897, 2897;—CL 1915, 2771;—CL 1929, 1680;—CL 1948, 71.8.

71.9 Water works; use of street or highway.

Sec. 9. For the purpose of operating or constructing and maintaining such water works, the village shall have the right to use the ground or soil under any street, highway, or road within the county or counties within which such village is situated for the purpose of introducing water into and through any and all portions of the village, on condition that it shall cause the surface of such street, highway, or road to be relaid and restored to its usual state without unnecessary delay and any damage done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes upon like conditions.

HISTORY: CL 1897, 2898;—CL 1915, 2772;—CL 1929, 1681;—CL 1948, 71.9.

71.10 Water works; condemnation.

Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property for the construction, and maintenance or for the due operation of water works, the right to occupy and hold the same and the ownership therein and thereto may be acquired by the village in the manner and with like effect as provided in this act for the taking of private property for public use.

HISTORY: CL 1897, 2899;—CL 1915, 2773;—CL 1929, 1682;—CL 1948, 71.10.

CONDEMNATION FOR WATER WORKS: See Compilers' § 73.1 et seq.

71.11 Water supply contract; user of streets, wharves, public grounds.

Sec. 11. The council may contract from year to year, or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such village and the inhabitants thereof, with water, upon such terms and conditions as may be agreed; and may grant to such person, persons, or corporation the right to the use of the streets, alleys, wharves, and public grounds of such village as shall be necessary to enable such person, persons, or corporation to construct and operate proper works for the supply of water for the use of such village, and the inhabitants thereof, upon such terms and conditions as shall be specified in such contracts.

HISTORY: CL 1897, 2900;—CL 1915, 2774;—CL 1929, 1683;—CL 1948, 71.11.

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CHAPTER XII—LIGHTING.

72.1 Authorized village lighting.
72.2 Authorized village lighting; power of council.
72.3 Authorized village lighting; acquisition estimate, referendum; restriction on council.
72.4 Authorized village lighting; borrowing power, payment; bonds, terms.
72.5 Lighting; repairs, authorized tax, payment out of net revenues, saving clause; title retaining contract, approval; municipal finance commission, approval or disapproval, factors; bonds, approval by electors.
72.6 Light rates.
72.7 Lighting; condemnation of property.
72.8 Lighting; contract; users of streets, wharves, public grounds.
72.9 Lighting works; control and preservation regulations.

72.1 Authorized village lighting.

Sec. 1. It shall be lawful for any village having a resident population of not less than 250 inhabitants, to acquire by purchase or to construct, operate and maintain either independently or in connection with the water works of the village, either within or without the village, works for the purpose of supplying such village and the inhabitants thereof, or either, with gas, electric or other lights, at such times and on such terms and conditions as the council of any such village shall direct.

HISTORY: CL 1897, 2901;—CL 1915, 2775;—Am. 1917, p. 50, Act 25, Eff. Aug. 10;—CL 1929, 1684;—CL 1948, 72.1.

72.2 Authorized village lighting; power of council.

Sec. 2. Whenever the council of any village shall, by resolution, declare that it is expedient for such village to acquire by purchase, or to construct, as the case may be, works for the purpose of supplying such village and the inhabitants thereof, or either, with gas, electric, or other lights, then such council shall have power to take such action as shall be deemed expedient to accomplish such purpose.

HISTORY: CL 1897, 2902;—CL 1915, 2776;—CL 1929, 1685;—CL 1948, 72.2.

72.3 Authorized village lighting; acquisition estimate, referendum; restriction on council.

Sec. 3. In case the council shall declare that it is expedient for such village to acquire by purchase, construction or reconstruction, as the case may be, works for the purpose of supplying such village and the inhabitants thereof, or either, with electric or other lights, then the council shall cause to be made and recorded in their proceedings, an estimate of the expense thereof and the question of raising the amount required for such purpose or such part of such estimate not in excess of limitations on indebtedness of such village provided by law and not exceeding such estimate, shall be submitted to the electors of the village at its annual election, or at a special election called for that purpose by the council as provided in this act, and shall be determined as 2/3 of the electors voting at such election by ballot shall decide: Provided, That when villages incorporated under this act, vote to raise a sum less than such estimate the council shall not have power to incur any indebtedness for such purpose on the general faith and credit of such village until the charter thereof shall have been so amended as to permit the issuance of mortgage bonds on such proposed lighting plant, its revenues and franchise, in excess of the general limitations on indebtedness as provided by this act, in an amount equal to the difference between the indebtedness authorized by this act, and such estimate.

HISTORY: CL 1897, 2903;—CL 1915, 2777;—Am. 1925, p. 313, Act 214, Imd. Eff. May 6;—CL 1929, 1686;—CL 1948, 72.3.

72.4 Authorized village lighting; borrowing power, payment; bonds, terms.

Sec. 4. It shall be lawful for any such village to borrow any sum of money not exceeding 5 per cent of the assessed value of the property in said village as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing or con-

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structing and maintaining such lighting works as provided in the preceding sections of this chapter. The council shall have power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and to issue bonds of the village therefor, but the rate of such interest shall not exceed 6 per cent per annum, and such bonds shall not be sold for less than their par value: Provided, That the total amount expended for the purchase or construction of such lighting works shall not exceed the amount of the estimate of expense therefor provided for in section 3 of this chapter.

HISTORY: CL 1897, 2904;—CL 1915, 2778;—CL 1929, 1687;—CL 1948, 72.4.

MUNICIPAL OBLIGATIONS: Regulation of, Act 202 of 1943, being Compilers' § 131.1 et seq.

72.5 Lighting; repairs, authorized tax, payment out of net revenues, saving clause; title retaining contract, approval; municipal finance commission, approval or disapproval, factors; bonds, approval by electors.

Sec. 5. After lighting works have been purchased or constructed as aforesaid, in such village, the council may then raise and expend in making repairs or alterations, or in extending such works, such sum as it may deem advisable without submitting the question to the electors of the village: Provided, That the sum to be so raised, in any 1 year, shall be included in, and shall not increase the total amount which, by the provisions of section 1 of chapter 9 of this act, the council is authorized to raise: Provided further, That in lieu of raising such funds by tax, the council may by contract, which shall not impose a general obligation on the village, provide for such repairs, alterations or extensions. Such contract shall provide for payment therefor out of the net revenues which, after payment of obligations due, provision for payment of obligations to become due, and payment of legitimate and necessary operating and other expenses thereof, shall become available from the operation of such works after completion of such repairs, alterations or extensions and shall provide for the retention of title to materials furnished in the seller until paid for in full: Provided further, That no contract made pursuant to this section shall be so construed as to deprive the people of the village of any right vested in them by the constitution or the laws of this state, or be so construed as to constitute the granting of any franchise or its operating equivalent, or to convey title to property to any person not possessed of such title prior to the execution of such title retaining contract: And provided further, That said title retaining contract be approved by the municipal finance commission prior to the same becoming binding upon the village. The municipal finance commission shall determine their approval or disapproval upon the following factors: (a) whether such contract conforms to the provisions of this act; (b) whether after payment of legitimate and necessary operating and other expenses, and payments due or to become due on any existing obligations, the probable revenues pledged to the payment of such contract will be sufficient to pay the principal and interest on such contract when due; and (c) whether the cost of the repairs, alterations or extensions to be paid by such contract are excessive: And provided further, That upon approval of 3/5 of the electors of such village, the council may, in lieu of raising such funds by tax, as is provided by section 1 of chapter 9, or in lieu of using such funds available from the operation of such works, as provided in this section, borrow money and issue bonds for such repair, alteration or extension of such lighting works, under the same provisions of section 3 as apply to the acquiring or construction of such works.

HISTORY: CL 1897, 2905;—CL 1915, 2779;—Am. 1919, p. 546, Act 309, Eff. Aug. 14;—CL 1929, 1688;—CL 1948, 72.5;—Am. 1954, p. 299, Act 119, Eff. Aug. 13.

NOTE: Sec. 1, Ch. 9, above referred to, is Compilers' § 69.1.

72.6 Light rates.

Sec. 6. The council shall have the power to fix such just and equitable rates as may be deemed advisable for supplying the inhabitants of such village with lights.

HISTORY: CL 1897, 2906;—CL 1915, 2780;—CL 1929, 1689;—CL 1948, 72.6.

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72.7 Lighting; condemnation of property.

Sec. 7. If it shall be necessary in the judgment of the council to appropriate private property for the construction and maintenance, or for the due operation of lighting works, the right to occupy and hold the same, and the ownership therein and thereto may be acquired by the village in the manner and with like effect as provided in this act for the taking of private property for public use.

HISTORY: CL 1897, 2907;—CL 1915, 2781;—CL 1929, 1690;—CL 1948, 72.7.

CONDEMNATION: See Compilers' § 73.1 et seq.

72.8 Lighting; contract; users of streets, wharves, public grounds.

Sec. 8. The council may contract from year to year, or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such village or the inhabitants thereof, or both, with gas, electric or other lights, upon such terms and conditions as may be agreed; and may grant to such person, persons or corporation the right to the use of the streets, alleys, wharves, and public grounds of such village as shall be necessary to enable such person, persons or corporation to construct and operate proper works for the supplying of such light upon such terms and conditions as shall be specified in such contract.

HISTORY: CL 1897, 2908;—CL 1915, 2782;—CL 1929, 1691;—CL 1948, 72.8.

72.9 Lighting works; control and preservation regulations.

Sec. 9. The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of the lighting works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the erection, purchase, management and control of such works.

HISTORY: CL 1897, 2909;—CL 1915, 2783;—CL 1929, 1692;—CL 1948, 72.9.

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CHAPTER XIII—APPROPRIATION OF PRIVATE PROPERTY.

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73.1 Condemnation.

Sec. 1. Private property may be taken and appropriated for public use in any such village for the purpose of opening, widening, altering and extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures; for public grounds, parks, market places and spaces; for public wharves, docks, slips, basins and landings on navigable waters, and for the improvement of water courses; for sewers, drains and ditches, for public hospitals, pest houses, quarantine grounds and public cemeteries, and for other lawful and necessary public uses.

HISTORY: CL 1915, 2784;—CL 1929, 1693;—CL 1948, 73.1. This chapter was CL 1897, 2910-34. It appears here as it was amended by Act 176 of 1903, p. 237, Imd. Eff. June 4.

CONDEMNATION: See in general Compilers' § 213.1 et seq.

73.2 Condemnation; acquisition of property.

Sec. 2. If it shall become necessary to take and appropriate private property for the public uses or purposes specified in the preceding section, the right to occupy and hold the same, and the ownership therein and thereto, may be acquired by the village either in the manner, and with like effect, as provided by the general laws of this state relating to the taking of private property for public use in cities and villages, or by instituting and prosecuting the proceedings for that purpose as hereinafter set forth.

HISTORY: CL 1915, 2785;—CL 1929, 1694;—CL 1948, 73.2.

73.3 Condemnation; proceedings instituted, manner.

Sec. 3. Whenever the council of any such village shall have declared a public improvement to be necessary in the village, and shall have declared that they deem it necessary to take private property, describing it, for such public improvement, desig-

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nating it, and that the improvement is for the use or benefit of the public, they may by resolution, direct the village attorney to commence the necessary proceedings in behalf of the village, before a justice of the peace of the county in which such village is located, as they may designate or they may by resolution direct that such proceedings be commenced in the circuit court of such county, to carry out the objects of the resolution in regard to taking private property by the village for such public use.

HISTORY: CL 1915, 2786;—CL 1929, 1695;—CL 1948, 73.3.

73.4 Condemnation; proceedings before justice of the peace; delivery of resolution copy to prosecutor; petition, contents.

Sec. 4. In case the council shall direct that such proceedings be commenced before a justice of the peace, the village clerk shall make and deliver to such attorney, as soon as may be, a copy of such resolution certified under seal, and it shall be the duty of such attorney to prepare and file with such justice, in the name of the village, a petition signed by him in his official character and duly verified by him; to which petition a certified copy of the resolution of the council shall be annexed, which certified copy shall be prima facie evidence of the action taken by the council, and of the passage of said resolution. The petition shall state, among other things, that it is made and filed as commencement of judicial proceedings by the village in pursuance of this chapter, to acquire the right to take private property for the use or benefit of the public, without consent of the owners, for a public improvement, designating it, for a just compensation to be made. A description of the property to be taken shall be given and generally the nature and extent of the use thereof that will be required in making and maintaining the improvement shall be stated, and also the names of the owners and others interested in the property, so far as can be ascertained, including those in possession of the premises. The petition shall also state that the council has declared such public improvement to be necessary and that they deem it necessary to take the private property described in that behalf for such improvement for the use or benefit of the public. The petition shall ask that a jury be summoned and impaneled to ascertain and determine whether it is necessary to make such public improvement, whether it is necessary to take such private property as it is proposed to take for the use or benefit of the public, and to ascertain and determine the just compensation to be made therefor. The petition may state any other pertinent matter or thing and may pray for any other or further relief to which the village may be entitled within the objects of this chapter.

HISTORY: CL 1915, 2787;—CL 1929, 1696;—CL 1948, 73.4.

73.5 Summons; issuance, contents.

Sec. 5. Upon receiving said petition it shall be the duty of the said justice to issue a summons signed by him against the respondents named in such petition, stating briefly the object of said petition, and commanding them, in the name of the people of the state of Michigan, to appear before said justice at a time and place to be named in said summons, not less than 20 nor more than 40 days from the date of the same, and show cause, if any they have, why the prayer of said petition should not be granted.

HISTORY: CL 1915, 2788;—CL 1929, 1697;—CL 1948, 73.5.

73.6 Summons; service; guardian ad litem; order for appearance, service; alias, pluries summons; adjournments; officer's return, evidence.

Sec. 6. Said summons shall be served by the village marshal or any constable of the county in which such village is located, at least 5 days before the return day thereof, upon all the respondents found within the county, by exhibiting the original and delivering a copy to each of them. If any respondent who is a resident of the county cannot be found, the summons shall be served by leaving a copy thereof at his or her usual or last place of abode, with some person of suitable age and discretion. If any minor or person of unsound mind is interested in the premises to be taken, service may be made

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on the guardian of such person, if any, and if there is no guardian the justice may appoint some discreet and proper person to be guardian ad litem of such person in such proceedings, and such guardian shall have authority to represent such person in said proceedings. The proceedings to appoint such guardian shall be the same as in other cases provided by statute. And if it shall appear on the return day of the summons that any respondent cannot be found within the county and has not been served in the manner provided, or is a non-resident and has not voluntarily appeared, the court may make an order requiring such respondent or respondents to appear and show cause why the prayer of the petition should not be granted on a day to be named in the order, not less than 30 days from the date thereof, and may require that a certified copy of such order be personally served on such respondents wherever found, if practicable, at least 6 days before the time named in the order for appearance, or the court may make such order for appearance and require, as to any or all such respondents who shall not have been personally served and have not appeared, that service be made by publishing a certified copy of such order for 3 successive weeks, at least once in each week, in at least 1 newspaper published within the village, if there be one, and if not, then in some newspaper published at the county seat of the county in which such village is located, the last publication to be at least 6 days before the day fixed in the order for appearance. Alias and pluries summonses may be issued and the justice may adjourn the proceedings from time to time as there shall be occasion. Service of such order for appearance in either mode prescribed shall be sufficient notice of the proceedings to bind the respondents and the property represented by them. The return of the officer upon the summons and an affidavit of the due service or the publication of the order for appearance, if any, shall be filed with such justice before a jury shall be empaneled and be sufficient evidence of service on the respondents and of the manner of service.

HISTORY: CL 1915, 2789;—CL 1929, 1698;—CL 1948, 73.6.

73.7 Jury; empaneling; talesmen, summoning, empaneling.

Sec. 7. On the return day of the summons, or on some subsequent day to which the proceedings are adjourned, if no sufficient cause to the contrary has been shown, the justice shall make an order that a jury be empaneled in the cause. Such jury shall be composed of 12 freeholders of the village residing in the vicinity of the property to be taken described in the petition. The said jury shall be selected and empaneled as follows: The village marshal or any constable of the county shall on the same day, or at an adjourned day, pursuant to the order of the justice, make a list of 24 of such freeholders, and the village attorney and the respondents collectively shall each have the right to strike 6 names from the list of persons written down as aforesaid, and, subject to objection for cause, the 12 persons whose names are left on the list shall compose the jury for the trial of the cause, and shall be summoned to attend not less than 3 nor more than 10 days from the date of selecting such jury, by a venire issued by the justice and to be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from said list it shall be done by the justice, and in case any of the persons to be summoned cannot be found by such officer in the county, or being summoned do not attend, or shall be excused for cause, or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such officers, and the practice and proceedings under this chapter, except as herein otherwise provided, relative to empaneling, summoning and excusing jurors and talesmen, and imposing penalties or fines upon them for non-attendance, shall be the same as the practice and proceedings of justices' courts relative to jurors in civil cases in such courts, except that peremptory challenges shall not be allowed.

HISTORY: CL 1915, 2790;—Am. 1923, p. 343, Act 219, Eff. Aug. 30;—CL 1929, 1699;—CL 1948, 73.7.

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73.8 Jurors; oath, duties; instructions by justice; verdict, manner.

Sec. 8. The jurors so impaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain and determine whether there is a public necessity for making the proposed improvement and for taking for the use or benefit of the public the private property which the petition describes and prays may be taken, and if you shall determine that it is necessary to make such improvement, and to take such property, that then you will ascertain, determine and award the just compensation to be made therefor, and faithfully and impartially discharge all such other duties as devolve upon you in this case, and unless discharged by the court, a true verdict give, according to the law and evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property proposed to be taken, and examine the premises. They shall be instructed as to their duties and the law of the case by the justice, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and be signed by all the jurors.

HISTORY: CL 1915, 2791;—CL 1929, 1700;—CL 1948, 73.8.

73.9 Jury; verdict, contents.

Sec. 9. The jury shall determine in their verdict the necessity for the proposed improvement and for taking such private property for the use or benefit of the public for the proposed improvement, and in case they find such necessity exists they shall separately award to the owners of such property and others interested therein such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement, or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just.

HISTORY: CL 1915, 2792;—CL 1929, 1701;—CL 1948, 73.9.

73.10 Jury; use of petition, map; blank verdict.

Sec. 10. To assist the jury in arriving at their verdict the justice may allow the jury, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement and of each and all the parcels of property to be taken, and may also submit to them a blank verdict which may be as follows:

PART I.

We find that it is ..... necessary to take the private property described in the petition in this cause, for the use and benefit of the public, for the proposed public improvement.

PART II.

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Description of each of the several parcels of private property to be taken.	Owners, occupants and others interested in each parcel.	Compensation.	To whom payable.

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The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the justice, before it is submitted to the jury, or it may be done by the jury.

HISTORY: CL 1915, 2793;—CL 1929, 1702;—CL 1948, 73.10.

73.11 Amendments allowed.

Sec. 11. Amendments either in form or substance may be allowed by the justice or by the circuit court in any paper, petition, process, record or proceeding, or in the description of property proposed to be taken, or the name of any person, whether contained in a resolution passed by the council, or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after as well as before judgment confirming the verdict of the jury.

HISTORY: CL 1915, 2794;—CL 1929, 1703;—CL 1948, 73.11.

73.12 Verdict; entry on record, copy by village attorney; judgment of confirmation, finality; new jury.

Sec. 12. Upon filing the verdict rendered by any jury, with said justice, he shall enter the same upon the docket of his proceedings, and a copy thereof may be taken by the village attorney, for the use of the council and at any time thereafter, and within 40 days after the rendition of such verdict, the justice, upon the application of the village attorney shall enter judgment of confirmation of the determination and awards therein made. Unless such application and confirmation shall be made within said 40 days, all proceedings upon that verdict and award shall be at an end, and a new jury and new proceedings may be had, as in the case of a disagreement of the jury. All parties interested in such verdict shall take notice of the confirmation thereof. Any such judgment of confirmation shall be final and conclusive as to all parties not appealing therefrom, within the time hereinafter provided.

HISTORY: CL 1915, 2795;—CL 1929, 1704;—CL 1948, 73.12.

73.13 Verdict; failure to render; new jury, proceedings.

Sec. 13. If such jury should be unable to agree upon a verdict, or for any cause should fail to render a verdict, said justice shall, on the application of the village attorney, designate some day and hour when another jury may be empaneled; and such other jury shall be obtained, drawn, summoned, returned, bound to attend and serve, have the same qualifications, be sworn, and when sworn, have the same powers and duties as the first jury. The same proceedings, after they are sworn, shall be had by them, and by and before said justice, or some other justice of the county in which such village is located as provided for above after the first jury is sworn.

HISTORY: CL 1915, 2796;—CL 1929, 1705;—CL 1948, 73.13.

73.14 New juror.

Sec. 14. If any juror, after being sworn, shall die or from sickness or any other cause be unable to discharge his duties as a juror, said justice may cause to be drawn another person to serve in his place, who shall be sworn, and shall have the like qualifications, powers and duties as those already sworn.

HISTORY: CL 1915, 2797;—CL 1929, 1706;—CL 1948, 73.14.

73.15 Appeal to circuit court; bond.

Sec. 15. Any party aggrieved by the judgment of confirmation hereinbefore mentioned, may, within 10 days after the entry thereof, appeal therefrom to the circuit court of the county, by filing with the justice a claim of appeal, in writing under oath, in which he shall set forth a description of the land in which he claims an interest and a statement that he considers himself aggrieved by the proceedings and judgment of which he complains, and his objections, if any, to the amount of damages awarded. In case there shall be any objection to the process, petition or other proceedings and to

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the decision of the justice thereon which would not be allowed to be made on the trial of the appeal, the same may be set forth specifically in such claim of appeal. At the time of filing such claim of appeal the appealing party shall also file with the justice a bond to the village, in a penal sum of not less than 300 dollars, with sureties to be approved by said justice, conditioned that he will prosecute his appeal to effect, and pay any costs that may be awarded against him in the circuit court, and he shall also pay to the justice the sum of 3 dollars for making his return to the appeal.

HISTORY: CL 1915, 2798;—CL 1929, 1707;—CL 1948, 73.15.

73.16 Appeal; return by justice.

Sec. 16. Within 10 days after the filing of said claim of appeal said justice shall make and certify a return to said appeal setting forth a copy of the petition, processes, returns, affidavits, report of the jury, judgment of confirmation and all papers filed with him, and also a transcript of his docket entries relating to the proceedings in the cause, together with the bond and claim of appeal, and file the same with the clerk of the circuit court.

HISTORY: CL 1915, 2799;—CL 1929, 1708;—CL 1948, 73.16.

73.17 Jurisdiction of circuit court; proceedings; jury trial.

Sec. 17. Upon filing the return of the justice, as mentioned in the preceding section, the circuit court shall have jurisdiction of the case. Said circuit court shall proceed to hear and dispose of said case with all convenient speed. Said court or judge shall have power to adjourn the hearing from time to time as may be necessary. The circuit court shall decide upon the special objections set forth in the claim of appeal but shall not dismiss the case or render judgment therein against the village on account of any error or defect in the proceedings which can be properly corrected by amendment as in section 11 of this chapter provided, or which can be corrected on the trial of the case in the circuit court. If judgment is not rendered against the village on account of errors of law or defects in the proceedings and if the appeal is not dismissed, the parties may proceed to trial by jury without any reference to any term of court in the manner herein provided for trials in the circuit court.

HISTORY: CL 1915, 2800;—CL 1929, 1709;—CL 1948, 73.17.

73.18 Delivery of resolution copy to attorney; petition.

Sec. 18. In case the council shall as hereinbefore provided, direct that such proceedings be commenced in the circuit court the village clerk shall make and deliver to such attorney as soon as may be, a copy of the resolution mentioned in section 3 of this chapter, certified under seal, and it shall be the duty of such attorney to prepare and file with the clerk of said circuit court in the name of the village, a petition signed by him in his official character, and duly verified by him, said petition shall be addressed to the circuit court but in all other respects shall be the same in substance and effect as the petition required to be filed with a justice of the peace in cases where the proceedings are commenced before such justice.

HISTORY: CL 1915, 2801;—CL 1929, 1710;—CL 1948, 73.18.

73.19 Summons, alias and pluries summons; clerk, powers, duties.

Sec. 19. Upon receiving such petition it shall be the duty of the clerk of said court to issue a summons against the respondents named in such petition, stating briefly the objects of said petition and commanding them in the name of the people of the state of Michigan to appear before said circuit court at a time and place to be named in said summons, not less than 20 nor more than 40 days from the date of the same and show cause, if any they have, why the prayer of said petition should not be granted. Alias and pluries writs of summons may be issued by said clerk under like circumstances as provided in a case commenced before a justice. All such writs shall be signed by the clerk and his official seal shall be impressed thereon. The said clerk shall possess all the

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authority and discharge all the duties in respect to such case as in an ordinary civil action at law.

HISTORY: CL 1915, 2802;—CL 1929, 1711;—CL 1948, 73.19.

73.20 Sheriffs, circuit judge; powers; circuit court proceedings.

Sec. 20. In a case so commenced in the circuit court the sheriff, under sheriff or any deputy sheriff of the county shall in respect to the service of summons or any other process issued or in respect to any other matter or proceeding therein, possess all the authority and discharge all the duties of a village marshal or a constable in a case commenced before a justice of the peace; and in the case so commenced in the circuit court the circuit court or circuit judge shall in respect to appointment of a guardian ad litem for any of the respondents, the making of an order for the appearance of any of the respondents, and in respect to any other matter or proceeding therein, possess all the jurisdiction and authority and discharge all the duties of a justice of the peace in a case commenced before such justice; and in the case so commenced in the circuit court the order for the appearance of any of the respondents may be served or published in the same manner, the case adjourned from time to time, writs and process issued, as in a case commenced before a justice of the peace and in general all the proceedings in the case commenced in the circuit court shall be substantially the same, and shall have the same force and effect in all respects as in this chapter prescribed in relation to a case commenced before a justice of the peace, except as in this chapter otherwise provided.

HISTORY: CL 1915, 2803;—CL 1929, 1712;—CL 1948, 73.20.

JUSTICE OF PEACE: See Compilers' § 73.4.

73.21 Trial of case.

Sec. 21. On the return day of the summons in such case, or on some subsequent day to which the proceedings are adjourned, either by order of the circuit court or circuit judge, if no sufficient cause to the contrary has been shown, the circuit court, without reference to any term of court, shall proceed to try the case, and thereupon the case shall be tried and the proceedings had as are herein prescribed in respect to the trial of a case before a jury in a case appealed from a justice to the circuit court.

HISTORY: CL 1915, 2804;—CL 1929, 1713;—CL 1948, 73.21.

73.22 Empaneling jury, circuit court.

Sec. 22. If, pursuant to the provisions of this chapter, a jury trial in the circuit court becomes necessary, the circuit judge or circuit court shall make an order that a jury be empaneled to try the case. Such jury shall be composed of 12 freeholders of the village residing in the vicinity of the property to be taken described in the petition. Said jury shall be selected and empaneled as follows: The sheriff, undersheriff or any deputy sheriff of the county on the return day of the summons, or if the case is one that has been appealed from justice's court, then on the day fixed for the trial and disposition thereof, or at an adjourned day shall, pursuant to the order of the judge or court, make a list of 24 of such freeholders and the village attorney or his assistant and the respondents collectively shall each have the right to strike 6 names from the list of persons written down as aforesaid, and, subject to objection for cause, the 12 persons whose names are left on the list, shall compose the jury for the trial of the cause and shall be summoned to attend at such trial as the judge or court shall direct by a venire issued by the clerk of the court, and be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from said list it shall be done by the judge of the court and in case any of the persons to be summoned cannot be found in the county or, being summoned, do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such sheriff or sheriff's officer, and the practice and proceedings under this

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chapter relative to empaneling, summoning and excusing jurors and talesmen and imposing penalties or fines upon them for non-attendance, shall be the same as the practice and proceedings of the circuit courts of the state relative to petit jurors in civil cases in such courts, except that peremptory challenges shall not be allowed, and except as herein otherwise provided.

HISTORY: CL 1915, 2805;—Am. 1923, p. 344, Act 219, Eff. Aug. 30;—CL 1929, 1714;—CL 1948, 73.22.

73.23 Circuit court; jurors, oath, duties; instructions; verdict.

Sec. 23. The jurors so impaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will, well and truly ascertain and determine whether there is a public necessity for making the proposed improvement and for taking for the use or benefit of the public the private property which the petition describes and prays may be taken, and if you shall determine that it is necessary to make such improvement and to take such property that then you will ascertain, determine and award the just compensation to be made therefor, and faithfully and impartially discharge all such other duties as devolve upon you in this case, and unless discharged by the court a true verdict give according to the law and evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property taken, and examine the premises. They shall be instructed as to their duties and the law of the case by the circuit judge, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and shall be signed by all jurors.

HISTORY: CL 1915, 2806;—CL 1929, 1715;—CL 1948, 73.23.

73.24 Circuit court; verdict, contents.

Sec. 24. The jury shall determine in their verdict the necessity for the proposed improvement and for taking such private property for the use or benefit of the public for the proposed improvement, and in case they find such necessity exists, they shall separately award to the owners of such property and others interested therein such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement, or other lien, estate or interest they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just.

HISTORY: CL 1915, 2807;—CL 1929, 1716;—CL 1948, 73.24.

73.25 Circuit court; jury use of petition, map; blank verdict.

Sec. 25. To assist the jury in arriving at their verdict the circuit judge may allow the jury, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement, and of each and all the parcels of property to be taken, and may also submit to them a blank verdict which may be as follows:

PART I.

We find that it is ..... necessary to take the private property described in the petition in this cause, for the use and benefit of the public, for the proposed public improvement.

PART II.

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

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Description of each of the several parcels of private property to be taken.	Owners, occupants and others interested in each parcel.	Compensation.	To whom payable.

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the judge, before [it] is submitted to the jury, or it may be done by the jury.

HISTORY: CL 1915, 2808;—CL 1929, 1717;—CL 1948, 73.25.

73.26 New trial; proceedings, amendments, judgment of confirmation.

Sec. 26. The verdict of the jury may be set aside by the circuit court and a new trial ordered as in civil actions at law. Said court may allow amendments either in form or substance as may be necessary and in that behalf exercise all the powers hereinbefore granted. Motions for a new trial or to arrest the proceedings shall be made within 2 days after the rendition of the verdict unless further time is allowed by the court, and if no such motion is made, or being made, is overruled, the court shall enter an order or judgment confirming the verdict of the jury, and such judgment of confirmation unless reversed by the supreme court, shall be final and conclusive as to all persons interested therein.

HISTORY: CL 1915, 2809;—CL 1929, 1718;—CL 1948, 73.26.

73.27 Confirmation, entry; appeal costs; discontinuance resolution, filing, costs; new proceedings.

Sec. 27. Upon dismissal of an appeal, or on rendition of verdict favorable to the village in any case after a trial in the circuit court, said court shall enter judgment and confirm the proceedings and rights of the village to take and appropriate the lands of the appellant for the purpose mentioned in the resolution of the council. In cases appealed from a justice unless the appellant shall recover a verdict and judgment for at least 50 dollars more than the amount awarded to him before the justice, he shall pay costs to the village; otherwise the court shall award such costs to him or to the village as shall be just. If the verdict or judgment rendered in any case tried in the circuit court shall be against the village upon the question of the necessity of taking the property described in the petition for public use, or for the benefit of the public, or if for any other reason the village council shall deem it best to discontinue such cause and not to take further proceedings therein, they may, by resolution so declare, and thereupon the village clerk shall make and certify a copy of such resolution and deliver the same to the village attorney, who shall file such certified copy of resolution with the clerk of the circuit court. Upon the same being so filed said cause shall be deemed to be discontinued and no further proceedings therein shall be taken, except that the village shall pay all costs awarded against it by the court. The village council may institute new proceedings for the taking of such lands or any part thereof at any time thereafter.

HISTORY: CL 1915, 2810;—CL 1929, 1719;—CL 1948, 73.27.

73.28 Settlement of case by circuit judge; appeal to supreme court; bond; transfer of record copies.

Sec. 28. The judge of the circuit court shall at the request of either party in said cause in the circuit court, within a time to be fixed by said court or judge thereof, settle a case according to the usual practice of said court, showing the material evidence and instructions given to the jury, and the proceedings had upon any disputed point to which exception was taken, and the objections, rulings and exceptions in the case,

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which shall be signed by the circuit judge and filed with the clerk of said court. Either party to said cause in the circuit court may, within 15 days after the filing of said case, made or if no steps be taken to make and settle a case, then within 15 days after the entry of judgment in the circuit court, appeal therefrom to the supreme court by filing with the clerk of the circuit court and serving upon the opposite party or his attorney, a notice and claim of appeal. Such notice shall specify the objections to the proceedings had in the premises and all other objections, if any, shall be deemed to have been waived. If the appeal is taken by either of the respondents he shall, within the time allowed for the giving of such notice, file a bond in said circuit court to be approved by the judge thereof, conditioned for the prosecution of his appeal to judgment and the payment of all costs, damages and expenses that may be awarded against him in case the judgment shall be confirmed. In case of an appeal by the village no bond shall be required. In case of such appeal the clerk of the circuit court on payment of his legal fees and charges, shall transmit to the supreme court such case made and a certified copy of the necessary files, records and proceedings in the cause.

HISTORY: CL 1915, 2811;—CL 1929, 1720;—CL 1948, 73.28.

73.29 Proceedings on appeal; costs; damages.

Sec. 29. The said appeal may be brought on for hearing at any term of the supreme court by notice thereof being given according to the rules and practice of the court. Said court shall pass only upon such objections as are specified in the written notice of appeal, and may confirm or for any substantial error reverse the judgment, and may grant a new trial in the circuit court. The said court shall allow the prevailing party his reasonable costs and expenses to be taxed, and give judgment as in other civil cases, and all costs, damages and expenses awarded to the village, if it so elect, may be applied on or deducted from the compensation if any, to be paid, or execution may issue on the judgment; damages may be awarded against a party appealing without reasonable cause.

HISTORY: CL 1915, 2812;—CL 1929, 1721;—CL 1948, 73.29.

73.30 Village clerk; record of verdict and judgment; evidence.

Sec. 30. If a verdict and judgment in such cause shall be rendered in favor of the village, either by a justice of the peace or in the circuit court and after the same shall become final unless the cause shall have been discontinued as hereinbefore provided, it shall be the duty of the village clerk to procure copies of the judgment of the circuit court or of the justice of the peace as well as of the verdict of the jury, and the same shall be recorded in a book of records to be kept by him, and the docket of such justice, or the judgment of said circuit court, as well as the book of records of such proceedings kept by said clerk, or certified copies thereof, shall be presumptive evidence of the matters therein contained, and of the regularity of all the proceedings to appropriate the property sought to be acquired, and to confirm the same.

HISTORY: CL 1915, 2813;—CL 1929, 1722;—CL 1948, 73.30.

73.31 Benefited district; apportionment; assessment roll, evidence; levy, sale.

Sec. 31. After the recording by the village clerk of the final judgment and verdict as provided in the last preceding section the proper and necessary proceedings in due course may be taken by the village council for the collection of the sum or sums awarded by the jury. If the council believe that a portion of the village in the vicinity of the proposed improvement will be benefited by such improvement, they may, by an entry in their minutes, determine that the whole or any just proportion of the compensation awarded by the jury, and of the costs and expenses incurred in connection with the proceedings, shall be assessed upon the owners or occupants of real estate deemed to be thus benefited, and thereupon they shall, by resolution, fix and determine the

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district or portion of the village benefited, and specify the amount to be assessed upon the owners or occupants of the taxable real estate therein. In determining the amount of such costs and expenses the council may include all costs and expenses incurred or paid for jurors' fees, expenses of abstracts, all surveys and maps and all other necessary expenses. The amount of the benefit thus ascertained shall be assessed upon the owners or occupants of such taxable real estate, in proportion, as nearly as may be, to the advantage which each such lot, parcel or sub-division is deemed to acquire by the improvement. The assessment shall be made and the amount levied and collected in the same manner and by the same officers and proceedings, as near as may be, provided in and by the act, entitled "An act to provide for the incorporation of villages within the state of Michigan and defining their powers and duties," approved February 19, 1895, as amended, of which this act is amendatory, for assessing, levying and collecting the expense of public improvement. The assessment roll containing said assessments when ratified and confirmed by the council, shall be final and conclusive and prima facie evidence of the regularity and legality of all proceedings prior thereto, and the assessment therein contained shall be and continue a lien on the premises on which the same is made until payment thereof. Whatever amount or portion of such awarded compensation, costs and expenses shall not be raised in the manner herein provided shall be assessed, levied and collected upon the taxable real estate of the village, the same as other general taxes are assessed and collected therein. At any sale which takes place of the assessed premises or any portion thereof delinquent for non-payment of the amount assessed and levied thereon, the village may become a purchaser.

HISTORY: CL 1915, 2814;—CL 1929, 1723;—CL 1948, 73.31.

NOTE: The sections in the act above referred to are Compilers' § 69.1 et seq.

73.32 Judgment sum to be in treasury within year; payment; deposit certificate filing; right to possession, writ of assistance.

Sec. 32. Within 1 year after the judgment in said cause shall become final the council shall set apart and cause to be provided in the treasury, unless the cause shall have been discontinued and unless already provided, the amount required to make compensation to the owners and persons interested for the private property taken as awarded by the jury, and shall in the resolution setting apart and providing said sum if not already provided, direct the village to pay to the persons respectively entitled to the money so set apart and provided, to each his or her proportion, as ascertained and awarded by said verdict. And it shall be the duty of the treasurer to securely hold such money in the treasury for the purpose of paying for the property taken, and pay the same to the persons entitled thereto according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever. The council may provide the necessary amount by borrowing from any other money or fund in the treasury and repay the same from money raised to pay the compensation awarded by the jury, when collected, or otherwise, as they may provide. Whenever the necessary sum is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates verified by his oath, showing that the amount of compensation awarded by the jury is actually in the treasury for payment of the private property taken in the case, giving the title of the case; he shall cause 1 of the certificates to be filed in the office of the justice before whom such proceedings were had, or his successor, or in the office of the clerk of the court in which the proceedings were had, and the other to be filed with the village clerk, which certificates shall be prima facie evidence of the matters therein stated. Whenever the amount of such compensation is in the treasury and thus secured to be paid, the council may enter upon and take possession of and use such private property for the purposes for which it was taken and may remove all buildings, fences and other obstructions therefrom. In case of resistance or refusal on the part of any one to the council, or their agents and servants entering upon and tak-

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ing possession of such private property for the use and purpose for which it was taken, at any time after the amount of the compensation aforesaid is actually in the treasury ready to be paid to those entitled thereto, the council, by the village attorney, may apply to the justice or other proper court and shall be entitled, on making a sufficient showing, to a writ of assistance to put them in possession of the property.

HISTORY: CL 1915, 2815;—CL 1929, 1724;—CL 1948, 73.32.

73.33 Officers and witnesses in proceeding; compensation and fees.

Sec. 33. Officers and witnesses in any proceeding under this chapter shall be entitled to receive the same fees and compensation as are provided by law for similar services in an ordinary action at law in the court where the case is tried. Persons summoned to serve as jurors before a justice shall be entitled to a fee of 2 dollars per day and also 10 cents per mile for each mile actually traveled in going to the place of trial. All said fees and mileage shall be paid by the village. Persons summoned to serve as jurors in the circuit court shall be entitled to receive the same per diem fee and the same mileage as is allowed by law for jurors in the circuit court; such fees and mileage of the persons so summoned as jurors shall be paid in the first instance by the county, but shall be repaid to the county by the village.

HISTORY: CL 1915, 2816;—CL 1929, 1725;—CL 1948, 73.33.

73.34 Property; evidence of ownership.

Sec. 34. It shall be prima facie evidence as to who are owners of and persons interested in any property proposed to be taken in the proceedings instituted under this chapter, if the register or deputy register of deeds of the county shall testify in open court that he has examined the records and titles in his office, and states who such records show, are the owners of, and persons interested in such property, and the nature and extent of such ownership and interest; and an abstract of the title of such property, or of any parcel of parcels thereof, certified by the register or deputy register of deeds, shall also be prima facie evidence as to ownership, and persons having an interest in any such property, and the extent and nature of such interest.

HISTORY: CL 1915, 2817;—CL 1929, 1726;—CL 1948, 73.34.

73.35 Property; buildings, sale; proceeds, disposition.

Sec. 35. In case there is on the private property taken a building or other structure, the same shall be sold by or under the direction of the council; the amount produced by the sale shall belong and be paid to the fund for paying the compensation awarded for the property taken, and the council shall cause such amount to be credited and applied in reduction pro rata of the assessment and apportionment made to pay for the property taken.

HISTORY: CL 1915, 2818;—CL 1929, 1727;—CL 1948, 73.35.

73.36 Construction of chapter; purchase of property.

Sec. 36. Nothing in this chapter contained shall prevent any village from obtaining private property for any of the public uses herein specified by negotiation and purchase.

HISTORY: CL 1915, 2819;—CL 1929, 1728;—CL 1948, 73.36.

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CHAPTER XIV—MISCELLANEOUS.

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74.22 Placing property outside corporate limits; procedure; resolution, board of supervisors.

74.1 Village; construed.

Sec. 1. The term village whenever used in this act shall be construed to mean a village incorporated under this act or subject to its provisions.

HISTORY: CL 1897, 2935;—CL 1915, 2820;—CL 1929, 1729;—CL 1948, 74.1.

74.2 Village not to own stock.

Sec. 2. No village shall become the owner or holder of stock or shares in any incorporated company.

HISTORY: CL 1897, 2936;—CL 1915, 2821;—CL 1929, 1730;—CL 1948, 74.2.

74.3 Affidavit of publication; filing, evidence.

Sec. 3. When, by the provisions of this act, notice of any matter or proceeding is required to be published or posted, an affidavit of the publication or posting of the same, made by the printer of the newspaper in which the same was inserted, or by some person in his employ knowing the facts, if such notice was required to be by publication, or by the person posting the same, when required to be by posting, shall be prima facie evidence of the facts therein contained: Provided, The same be filed with the village clerk within 6 months from the date of the last publication thereof, or of posting the same.

HISTORY: CL 1897, 2937;—CL 1915, 2822;—CL 1929, 1731;—CL 1948, 74.3.

74.4 Judgments or decrees; bonds for payment.

Sec. 4. Whenever any judgment or decree of any court shall be rendered or decreed against any village, and such village shall be unable to meet the payment of such judgment or decree by reason of the limitation of its power of taxation, then and in such case it shall be lawful for the council of said village to issue the bonds of such village to an amount not exceeding the sum of such judgment or decree, and the taxed costs arising in the procuring of such judgment or decree together with the interest thereon, which bonds may be made payable at such times and place and at such rate of interest, not exceeding 6 per cent per annum, as shall be prescribed by the council, and such bonds shall be sold and disposed of at not less than par value, in such manner as may be deemed advisable by said council.

HISTORY: CL 1897, 2938;—CL 1915, 2823;—CL 1929, 1732;—CL 1948, 74.4.

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74.5 Board of trustees; construed.

Sec. 5. Whenever in any other act than this the governing body of a village is described as the board of trustees, the trustees, or common council, it shall be construed to mean the body herein described as the village council.

HISTORY: CL 1897, 2939;—CL 1915, 2824;—CL 1929, 1733;—CL 1948, 74.5.

74.6 Changing boundaries; order, copy to secretary of state, evidence.

Sec. 6. Whenever the council of any village shall determine by resolution to alter the boundaries of such village, either by taking in lands and premises adjoining thereto or by taking out any lands and premises included in such village, or both, they shall petition the board of supervisors of the county in which such lands and premises affected thereby are situated to make such change. Such petition shall contain a description by metes and bounds of the lands and premises proposed to be added to or taken out of such village, and shall set forth the reasons for the proposed change, and shall contain a copy of the resolution of the council in relation thereto, and shall be signed by the president and clerk of such village. Before such petition shall be presented to the board of supervisors notice shall be given by the clerk of the time and place when the same will be presented for consideration, by publishing the same in a newspaper published in such village for at least 3 weeks immediately preceding the presentation of the same, and if no newspaper is published in such village then by posting the same in at least 3 of the most public places within the village, and in at least 3 of the most public places of the territory directly affected thereby. Such notice shall also contain a description of the premises proposed to be taken in or out of the boundaries of such village. At the time of presenting such petition all parties interested may appear before such board of supervisors and be heard touching the proposed boundaries of such village and after such hearing and due consideration of such petition, it shall be the duty of the board of supervisors to order and determine as to whether the prayer contained in the petition or any part thereof shall be granted, and they shall make an order of such determination, which order shall be entered upon their records, and thereupon the boundaries of such village shall be fixed and shall exist as provided in such order, and a certified copy thereof shall be transmitted to the clerk of such village and to the secretary of state, and such order shall be prima facie evidence of such change of boundaries of such village and of the regularity of such proceedings in all courts and places.

HISTORY: CL 1897, 2940;—CL 1915, 2825;—CL 1929, 1734;—CL 1948, 74.6.

74.7 Re-incorporation of villages; repeal.

Sec. 7. All villages heretofore incorporated under any general or special law of this state, are hereby re-incorporated under and made subject to the provisions of this act, such re-incorporation to take effect on the twenty-fifth day of February, A.D. 1895, and all general or special laws by virtue of which such villages have been incorporated are hereby repealed from and after the said twenty-fifth day of February, A.D. 1895.

HISTORY: CL 1897, 2941;—CL 1915, 2826;—CL 1929, 1735;—CL 1948, 74.7.

74.8 Re-incorporation of villages; rights, obligations; remedies.

Sec. 8. All villages re-incorporated under and made subject to the provisions of this act, as provided in the preceding section, shall succeed to and be vested with all the property, real and personal, moneyes [sic], rights, credits and effects, and all the records, files, books and papers belonging to such villages as formerly incorporated, and no rights or liabilities, either in favor of or against such former corporation, existing at the time of its reincorporation, under or subject to the provisions of this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of

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the new corporation, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made: Provided, That when a different remedy is given in this act, which can be made applicable to any rights existing at the time of the incorporation of the village under or subject to this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

HISTORY: CL 1897, 2942;—CL 1915, 2827;—CL 1929, 1736;—CL 1948, 74.8.

74.9 Re-incorporation; present officers.

Sec. 9. All the officers in any such village, elected or appointed under the provisions of the former act of incorporation of such village, and in office at the time this act shall take effect, shall continue to exercise their respective functions under the provisions of this act of re-incorporation for the full term for which they were so elected or appointed, and until their successors shall have qualified and entered upon the duties of their offices, unless herein otherwise provided for.

HISTORY: CL 1897, 2943;—CL 1915, 2828;—CL 1929, 1737;—CL 1948, 74.9.

74.10 Re-incorporation; existing by-laws, ordinances, rules and regulations.

Sec. 10. The by-laws and ordinances of any such village, and the rules and regulations of the council and of any board of such village heretofore in force and not inconsistent with this act, shall remain in force after the passage of this act, and are hereby declared to be re-enacted, by virtue of and under the powers conferred by this act, until altered, amended or repealed by the council or board as the case may be.

HISTORY: CL 1897, 2944;—CL 1915, 2829;—CL 1929, 1738;—CL 1948, 74.10.

74.11 Re-incorporation; special assessments, collection.

Sec. 11. In cases where a special assessment has been made by authority of and confirmed by the council of any such village, and the same, or some part thereof, shall not have been collected when this act shall take effect, such village, as hereby re-incorporated, shall have authority to enforce the payment thereof, and the same proceedings may be had therefor as are provided in this act.

HISTORY: CL 1897, 2945;—CL 1915, 2830;—CL 1929, 1739;—CL 1948, 74.11.

74.12 Re-incorporation; granted licenses.

Sec. 12. All licenses granted by any such village under its former act of incorporation shall be and remain in full force and virtue until the expiration of the time for which they were granted.

HISTORY: CL 1897, 2946;—CL 1915, 2831;—CL 1929, 1740;—CL 1948, 74.12.

74.13 Re-incorporation; first election, time, manner.

Sec. 13. The first election of officers for any such village re-incorporated under the provisions of this act shall be held on the second Monday in March, A.D. 1895 and notice thereof and of the officers to be elected thereat, shall be given and the election held and conducted, the votes canvassed, the result determined, and notice given to persons elected, in the same manner and within the same time as herein provided.

HISTORY: CL 1897, 2947;—CL 1915, 2832;—CL 1929, 1741;—CL 1948, 74.13.

Sec. 14.

HISTORY: CL 1897, 2948;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916 (Jud. Act).

This section provided that process against village should run in corporate name.

74.15 Re-incorporation; plats, required approval, requisites.

Sec. 15. No lands or premises shall hereafter be laid out, divided and platted into lots, streets, and alleys, within any such village, except by permission and approval of the council by resolution passed for that purpose; nor until the proprietor shall file with the village clerk a correct survey, plan, and map of such grounds and the subdivi-

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sions thereof, platted and subdivided as approved by the council, and made to their satisfaction; showing also the relative position and location of such lots, streets, and alleys with respect to the adjacent lots and streets of the village; nor shall any such plat and dedication of the streets and public grounds thereon be recorded in the office of register of deeds of the county in which such village is located until a certificate has been endorsed thereon by the village clerk, under the seal of the village, showing that such plat and dedication has been approved by the council; nor shall the village by reason of such approval, be responsible for the improvement, care, and repairs of such streets and alleys excepting such as the council shall accept and confirm by ordinance or resolution.

HISTORY: CL 1897, 2949;—CL 1915, 2833;—CL 1929, 1742;—CL 1948, 74.15.

Sec. 16. (This was a repeal section.)

HISTORY: CL 1897, 2949n;—CL 1915, 2833n;—CL 1929, 1742a;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.
ACTS REPEALED: Act 168, 1857; Act 238, 1865; Act 144, 1867; Act 62, 1875; Act 92, 1875; Act 20, 1893.

74.17 Vacation of village incorporation; procedure.

Sec. 17. Whenever the qualified electors of any incorporated village shall desire to vacate the incorporation of the same, the board of trustees or common council of such village, upon a petition being presented to it at any regular or special meeting, signed by at least 1/4 of the legal voters of such village as shown by the registration list of the last preceding registration held in said village, praying that the incorporation of such village may be vacated, shall, immediately thereupon, order a special meeting of the electors of such village to be held for the purpose of voting upon the question of vacating the incorporation of the same, and shall give 20 days' notice of the time and place of holding such meeting by posting up written or printed notices which shall state the object of such meeting by reciting the substance of such petition, in 6 of the most public places within the limits of such village.

HISTORY: Add. 1897, p. 232, Act 182, Imd. Eff. May 29;—CL 1897, 2950;—CL 1915, 2834;—CL 1929, 1743;—CL 1948, 74.17.

74.18 Vacation of village incorporation; ballot; vote; transcript of proceedings, filing; limitation.

Sec. 18. At the time of holding such meeting, all persons voting in favor of vacating the incorporation of such village shall have written or printed on their ballots "In favor of vacating," and those voting against vacating the incorporation of such village shall have written or printed on their ballots "Against vacating"; and such meeting shall be conducted and the votes shall be canvassed in the same manner as is provided for conducting elections in such village; and in case a 2/3 majority of the qualified electors of such village shall vote in favor of vacating the incorporation of the same, the trustees or common council of such village, or a majority of them, shall, immediately thereafter, cause a transcript of all the proceedings in the case to be certified, under their hands, to the county clerk of the county in which such village or the principal part thereof is located: Provided, That nothing in this act contained shall authorize the qualified electors of any such incorporated village, or the board of supervisors, to vacate or alter any recorded plat of such village, or any street or alley in the same.

HISTORY: Add. 1897, p. 232, Act 182, Imd. Eff. May 29;—CL 1897, 2951;—CL 1915, 2835;—CL 1929, 1744;—CL 1948, 74.18.
ELECTIONS: See Compilers' § 63.1 et seq.

74.19 Vacation of village incorporation; vacation resolution, board of supervisors.

Sec. 19. Upon receiving the transcript of the proceedings in submitting to a vote of the electors the question of vacating the incorporation of any village, properly certi-

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fied to as provided in the preceding section, the county clerk shall lay the same before the board of supervisors of the county at its next regular annual meeting, and it shall thereupon be the duty of the board of supervisors to pass a resolution vacating the incorporation of such village.

HISTORY: Add. 1897, p. 233, Act 182, Imd. Eff. May 29;—CL 1897, 2952;—CL 1915, 2836;—CL 1929, 1745;—CL 1948, 74.19.

74.20 Vacation of village incorporation; disposal of village property.

Sec. 20. Upon the vacation of the incorporation of any village, under the provisions of the preceding sections, it shall be the duty of the officers of such village to forthwith deposit all books, papers, records and files, relating to the organization of, or belonging to such village, which are in their custody as such officers, with the county clerk of the county in which such village or the principal part thereof is located, for safe keeping and reference. Upon the vacation or discontinuance of any village incorporation, under the preceding sections, the indebtedness of such village, whether bonded or otherwise, if any there be, shall be assessed, levied and collected upon the territory embraced within the boundaries of such village immediately prior to such vacation. It shall be the duty of the supervisor or supervisors of the township or townships in which the territory formerly embraced within the limits of any vacated village (within 1 year from the date of the vacation of such village, except when such indebtedness falls due at some specified time, in which case such assessment shall be made so as to meet such indebtedness when the same falls due), to levy upon the assessment roll or rolls of his township upon the property formerly embraced within the limits of such village, the indebtedness of such village, or such portion of the same as shall be apportioned to the part of the territory formerly constituting such village as lies within his township as hereinafter provided. The taxes so assessed and levied shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness and the manner of the payment of such indebtedness shall be fixed by the board of supervisors in the resolution to be passed by said board vacating the incorporation of such village.

HISTORY: Add. 1897, p. 233, Act 182, Imd. Eff. May 29;—CL 1897, 2953;—CL 1915, 2837;—CL 1929, 1746;—CL 1948, 74.20.

74.21 Vacation of village incorporation; apportionment of indebtedness; village in more than one township, county.

Sec. 21. In case the territory formerly embraced within such vacated village shall consist of territory of 2 or more townships in the same county, it shall be the duty of the board of supervisors to apportion, among the several townships, the amount of such indebtedness which each township shall bear; and in case such village was comprised of territory from 2 different counties, it shall be the duty of the boards of supervisors of the 2 counties to determine what portion of such indebtedness each county shall bear, using as a basis the last preceding assessment roll of such village prior to its vacation. Such indebtedness, when so apportioned, shall be assessed, levied and collected as provided in the preceding section.

HISTORY: Add. 1897, p. 234, Act 182, Imd. Eff. May 29;—CL 1897, 2954;—CL 1915, 2838;—CL 1929, 1747;—CL 1948, 74.21.

74.22 Placing property outside corporate limits; procedure; resolution, board of supervisors.

Sec. 22. In case any person or persons want their property placed without the corporate limits of any village, they may make application to the board of supervisors of the county in which such village is located, to change the boundaries thereof in such manner as will place the property of the person or persons applying therefor without the corporate limits of such village. Such application shall be filed with the county clerk of each county at least 10 days prior to the annual session in October of such board of supervisors, and shall be signed by 100 taxpayers of the village, or by 1/10 of the taxpayers of such village. Any person intending to apply to the board of supervi-

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sors to have his property placed without the corporate limits of any village shall give or cause to be given at least 15 days' notice of such application to the clerk of said village and by posting the same in at least 3 conspicuous public places within such village. Upon receiving the application aforesaid, the board of supervisors shall have power, by resolution, to change the boundaries of such village, as described and mentioned in such application.

HISTORY: Add. 1897, p. 234, Act 182, Imd. Eff. May 29;—CL 1897, 2955;—CL 1915, 2839;—CL 1929, 1748;—CL 1948, 74.22.

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CHAPTER XV—ELECTIONS FOR BORROWING MONEY AND ISSUING BONDS; ISSUANCE OF BONDS AND LEVY OF A TAX TO PAY PRINCIPAL AND INTEREST THEREOF.

75.1 Bond issue; approval powers.
75.2 Bonds; action of council; resolution, contents, surplus usage.
75.3 Registration and election notices; affidavits, filing.
75.4 Election; separate ballots.
75.5 Election; registration.
75.6 Election; polls, time open.
75.7 Election; conduct.
75.8 Authorized bond issue; resolution; bonds, interest coupons.
75.9 Annual tax; collection; sinking fund, use.
75.10 Moneys; deposit in bank, investment.
75.11 Bonds; sale.
75.12 Construction of chapter; unauthorized bonds void.

75.1 Bond issue; approval powers.

Sec. 1. In all cases where a village under the preceding chapters of this act, upon an approving vote of the qualified electors thereof either at a general village election or at a special election called for that purpose, is authorized either to borrow money or to borrow money and issue the bonds of the village therefor, such village shall continue with such powers subject, however, to the provisions of this chapter.

HISTORY: CL 1929, 1749;—CL 1948, 75.1. This chapter, containing 12 sections, was added in 1917, p. 729, Act 295, Eff. Aug. 10.

Title and Sec. 1 of amendatory Act 295 of 1917 in referring to sections of 1915 compilation should have stated sections 2555 to 2839 instead of 2555 to 2871.

75.2 Bonds; action of council; resolution, contents, surplus usage.

Sec. 2. Whenever the council shall deem it advisable to borrow money and issue the bonds of the village therefor for any public municipal purpose as authorized by the preceding chapters of this act, it shall, upon an approving vote of a majority of all its members-elect, so declare by resolution and shall therein set forth the definite amount of money to be borrowed and of the bonds to be issued therefor; the specific purpose thereof; the time when the proposition of borrowing money and issuing bonds therefor will be submitted to the qualified electors of the village for their approval, the specific place of meeting of the board of registration and of holding such election in each election precinct in said village, the form of ballot to be used at such election and the form of registration and election notices to be given; such notice shall include a statement of all the items enumerated above and shall be signed by the village clerk. Anything contained in the foregoing resolution, notice of election or ballot not required by the provisions of this section to be therein contained, shall be considered surplusage and of no legal effect whatsoever.

HISTORY: Add. 1917, p. 729, Act 295, Eff. Aug. 10;—CL 1929, 1750;—CL 1948, 75.2.

75.3 Registration and election notices; affidavits, filing.

Sec. 3. The village clerk shall give notice of the meeting of the several boards of registration and of such election by causing a copy of the registration and election notices in the form prescribed in the preceding section to be published in some newspaper published and of general circulation in such village, if there be such a newspaper, at least twice before the day of such election, the first publication of which notices shall be at least 15 full days prior to the day of such election, and by posting or causing to be posted a copy of such registration and election notices at the polling place in each and every election precinct and in 10 other public places in such village at least 15 full days prior to the day of such election. Proper affidavits of the publication and posting of such registration and election notices shall be filed in the office of the village clerk.

HISTORY: Add. 1917, p. 730, Act 295, Eff. Aug. 10;—CL 1929, 1751;—CL 1948, 75.3.

75.4 Election; separate ballots.

Sec. 4. Several different propositions involving the issuance of bonds for different purposes may be submitted to the qualified electors of such village at the same elec-

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tion but each of such propositions so submitted shall be submitted upon separate ballots.

HISTORY: Add. 1917, p. 730, Act 295, Eff. Aug. 10;—CL 1929, 1752;—CL 1948, 75.4.

75.5 Election; registration.

Sec. 5. The registration of electors for elections held under the provisions of this chapter shall be had in accordance with the provisions of sections 14 and 15 of chapter 1 of this act.

HISTORY: Add. 1917, p. 730, Act 295, Eff. Aug. 10;—CL 1929, 1753;—CL 1948, 75.5.

NOTE: Secs. 14 and 15 of Ch. 1, above referred to, are Compilers' §§ 61.14 and 61.15.

75.6 Election; polls, time open.

Sec. 6. The polls of such election shall be open from 7 o'clock in the forenoon until 8 o'clock in the afternoon on the day of such election.

HISTORY: Add. 1917, p. 730, Act 295, Eff. Aug. 10;—CL 1929, 1754;—CL 1948, 75.6.

75.7 Election; conduct.

Sec. 7. Except as in this chapter otherwise provided, all elections held under the provisions of this chapter shall be held and the results thereof canvassed, under and in accordance with the provisions of chapter 3 of this act, entitled "Elections." After the canvass of the results of such election as required by section 9 of said chapter 3, the council by proper resolution shall declare the results of such election and, except for jurisdictional defects in prior proceedings, such declaration shall be final and conclusive.

HISTORY: Add. 1917, p. 729, Act 295, Eff. Aug. 10;—CL 1929, 1755;—CL 1948, 75.7.

NOTE: Chapter 3, above referred to, is Compilers' § 63.1 et seq.

75.8 Authorized bond issue; resolution; bonds, interest coupons.

Sec. 8. If the bonding proposition submitted under the provisions of this chapter to the qualified electors of such village receives the approving vote of a majority of the qualified electors voting thereon, the council shall by proper resolution authorize the issuance of the bonds so approved. Such bonds shall be dated at such time, but not prior to the date of the election approving their issue, shall become due and payable at such place and at such time or times not exceeding 30 years from their date, shall be of such denomination or denominations, shall bear interest at such rate not exceeding 6% per annum payable semiannually and shall be in such form as the council shall in said resolution direct. Such bonds shall be signed in the name of such village by the president, countersigned by the clerk and sealed with the seal of such village. The interest coupons attached to such bonds shall bear the original, printed or lithographed signature of the village treasurer.

HISTORY: Add. 1917, p. 730, Act 295, Eff. Aug. 10;—CL 1929, 1756;—CL 1948, 75.8;—Am. 1952, p. 200, Act 168, Eff. Sep. 18;—Am. 1969, p. 123, Act 65, Eff. Mar. 20, 1970.

75.9 Annual tax; collection; sinking fund, use.

Sec. 9. In the resolution authorizing the issuance of such bonds the council shall make full provision for the levy and collection of an annual tax upon all the taxable property of the village sufficient to pay the principal and interest of such bonds as they mature. Such tax shall be assessed and collected in the same manner as other general village taxes. The proceeds of such tax shall be deposited by the village treasurer in a fund separate from all other moneys, which fund shall be designated by name in such manner as to identify it with the bonds, to pay which such tax has been levied. The moneys in such sinking fund shall be used only for the purpose of paying the principal and interest of the particular issue of bonds, to pay which such tax was levied.

HISTORY: Add. 1917, p. 731, Act 295, Eff. Aug. 10;—CL 1929, 1757;—CL 1948, 75.9.

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75.10 Moneys; deposit in bank, investment.

Sec. 10. The council may order the village treasurer to deposit the moneys constituting any such sinking fund in a bank situate in the county in which such village is situate, to be designated by said council. Upon a vote of a majority of all its members-elect, said council shall from time to time and in the following order invest the moneys constituting such sinking fund:

First, In the bonds of said village;

Second, In the bonds of any township, school district, village or city of said county or in the bonds of said county;

Third, In the bonds of any county, township, school district, village or city of this state: Provided, however, That none of the municipalities above enumerated has a bonded indebtedness in excess of 10 per cent of the assessed value of the taxable property of such municipality: Provided further, That any bonds so purchased shall mature at a date prior to the date of maturity of such bonds, to pay which such sinking fund was constituted.

HISTORY: Add. 1917, p. 731, Act 295, Eff. Aug. 10;—CL 1929, 1758;—CL 1948, 75.10.

75.11 Bonds; sale.

Sec. 11. The council shall sell all bonds issued under the provisions of this chapter but at a price amounting to not less than their face value with accrued interest thereon to date of delivery.

HISTORY: Add. 1917, p. 731, Act 295, Eff. Aug. 10;—CL 1929, 1759;—CL 1948, 75.11.

75.12 Construction of chapter; unauthorized bonds void.

Sec. 12. It is the intent of this chapter to provide the method of borrowing money and issuing bonds therefor by each and every village incorporated under the provisions of this act; and no such village shall issue any bonds whatsoever, except special assessment and refunding bonds, except under and in full accordance with the provisions of this chapter. Any such bonds so issued without complying with the provisions of this chapter shall be null and void.

HISTORY: Add. 1917, p. 731, Act 295, Eff. Aug. 10;—CL 1929, 1760;—CL 1948, 75.12.

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CHAPTER 78. VILLAGES

Act 278 of 1909

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Act 278, 1909, p. 486; Eff. Sep. 1.

AN ACT to provide for the incorporation of villages and for revising and amending their charters. Am. 1913, p. 134, Act 95, Imd. Eff. Apr. 21.

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The People of the State of Michigan enact:

78.1 Corporate existence of villages to continue; subject to general laws; seal; suit.

Sec. 1. All villages within the state of Michigan, heretofore incorporated by any general or special act of the legislature, shall continue their corporate character as such villages, and any and all general and special charter provisions for the government of such villages shall continue in force until superseded, amended or repealed in accordance with the provisions of this act. All villages that now are incorporated or hereafter may be incorporated under the provisions of this act shall be subject to all general laws which have been or may hereafter be passed. They shall have a seal and may sue and be sued.

HISTORY: CL 1915, 2843;—CL 1929, 1763;—CL 1948, 78.1.
SANITATION: Supervision and regulation by department of health, see Compilers' § 325.201 et seq.
CITED IN OTHER SECTIONS: Sections 78.1 to 78.28 are cited in §§ 61.1b, 123.36, and 123.1007.

78.2 Incorporation, detachment, or consolidation of land; petition, signatures; summer resort associations; enumeration; qualified electors.

Sec. 2. Villages may be incorporated or territory detached therefrom or added thereto, or consolidation made of 2 or more villages into 1 village by proceedings originating by petition therefor signed by qualified electors residing within the cities, villages or townships to be affected thereby, to a number not less than 1 per centum of the population of the territory affected thereby according to the last preceding United States census, which number shall in no case be less than 100: Provided, however, That when all or any part of the district proposed to be incorporated, annexed or detached has been subdivided into 1 or more subdivisions, the plat or plats of which have been recorded in the register of deeds' office of the proper county, the petition therefor shall be signed by qualified electors residing within each such subdivision and by qualified electors residing within the unsubdivided portion, if any, of such district to a number in each case of not less than 1 per centum of the population of each such subdivision and of such unsubdivided portion of such district, such population to be determined as of the date on which the first signature to such petition shall be obtained: Provided further, That if there are no qualified electors residing within the district proposed to be annexed or detached, or within a subdivided or unsubdivided portion of such a district then such petition shall be signed by persons who collectively hold record legal title to more than 1/2 the area of the land, exclusive of streets, lying within such district, or subdivided portion of such district, at the time the first signature to such petition is obtained, and also by qualified electors in the remainder of the district to be affected by such annexation or detachment, to the number hereinbefore provided: Provided further, That when a summer resort association has been incorporated and has existed for 2 consecutive years under Act No. 230 of the Public Acts of 1897, as amended, being sections 10304 to 10326, inclusive, of the Compiled Laws of 1929, and such association having a number of legal voters of not less than 30 residing within such territory, the same may be incorporated as a village as hereinafter provided. Signatures of land owners as above provided shall be followed by a description of the land and area thereof. In proceedings for the incorporation of a new village or the consolidation of 2 or more villages into 1 village, a petition signed by not less than 20 qualified electors who are freeholders residing within the territory proposed to be incorporated or consolidated, praying for the taking of a census of the inhabitants of the territory affected thereby, may be filed with the county clerk of the county in which the territory is located. The county clerk within 5 days after the filing of the petition shall certify to the president of each village and supervisor of each township affected thereby, and to the secretary of state, that the petition has been so filed. Within 5 days after the service of the certificate, the secretary of state shall appoint enumera-

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tors to enumerate the inhabitants of each village proposed to be incorporated, or a consolidation made thereof. Before entering upon the duties of his office, each enumerator shall take and subscribe to the constitutional oath of office before some officer authorized to administer oaths and file the same with the secretary of state and with the county clerk in which the territory is located. Each enumerator shall enumerate all of the bona fide inhabitants of the village or township, territory or portion thereof assigned to him by the secretary of state, and shall visit each house or dwelling and obtain the names of each known resident thereof. Each enumerator shall receive for his services not to exceed $5.00 per day, together with his actual and necessary expenses therefor, which sum shall be paid by the village or township within which the services of the enumerator were rendered. Upon completing the enumeration it shall be the duty of the persons so appointed to make a return in duplicate of the enumeration showing the names of the inhabitants of each village or township, territory or district to the county clerk and to the secretary of state. No enumeration or census shall be conducted in any village or township, or portion thereof, within 2 years of the date of the last enumeration in the territory. Every enumeration shall be conducted under the general supervision and control of the secretary of state who shall make rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for the purpose of carrying out the provisions of this section. If a petition is signed by land owners in the case of a district which is proposed to be annexed or detached in which there are no qualified electors residing, as above provided, then a sworn statement shall also accompany such petition giving the total area of the land, exclusive of streets, included within such uninhabited district to be annexed or detached, or such subdivided or unsubdivided portion thereof: Provided, however, That the term "qualified electors" as used in this section as applied to persons residing within unsubdivided portions of the district shall include only such electors who are owners of property assessed for taxes within the unsubdivided portions of the district.

HISTORY: CL 1915, 2844;—Am. 1927, p. 259, Act 159, Imd. Eff. May 12;—Am. 1929, p. 610, Act 251, Eff. Aug. 28;—CL 1929, 1764;—Am. 1941, p. 501, Act 291, Eff. Jan. 10, 1942;—CL 1948, 78.2;—Am. 1958, p. 154, Act 140, Eff. Sep. 13.

COMPILERS' NOTE: The catchline following the act section number of this section was incorporated as part of the act as enacted.

Act 230, 1897, above referred to, is Compilers' § 455.1 et seq.

CONSOLIDATION: Of two or more cities or villages, see Act 390 of 1913, being Compilers' §§ 123.21 and 123.22.

78.3 Petitions; contents.

Sec. 3. Said petition shall accurately describe the proposed boundaries of the village or of the territory to be annexed thereto or detached therefrom and if the purpose is to incorporate a new village, it shall represent that the territory described contains not less than 150 inhabitants and an average of not less than 100 inhabitants per square mile.

HISTORY: CL 1915, 2845;—Am. 1919, p. 453, Act 256, Eff. Aug. 14;—Am. 1925, p. 48, Act 40, Eff. Aug. 27;—Am. 1929, p. 583, Act 241, Eff. Aug. 28;—CL 1929, 1765;—CL 1948, 78.3.

78.4 Petitions; presentation; action of supervisors, resolutions; vote; review.

Sec. 4. Said petition shall be addressed to the board of supervisors of the county in which the territory to be affected by such proposed incorporation, consolidation or change of boundaries is located, and shall be filed with the clerk of said board not less than 30 days before the convening of such board in regular session, or in any special session called for the purpose of considering said petition, and if, before final action thereon, it shall appear to said board or a majority thereof that said petition or the signing thereof does not conform to this act, or contains incorrect statements, no further proceedings pursuant to said petition shall be had, but, if it shall appear that said

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petition conforms in all respects to the provisions of this act, and that the statements contained therein are true, said board of supervisors shall, by resolution, provide that the question of making the proposed incorporation, consolidation or change of boundaries shall be submitted to the qualified electors of the district to be affected at the next general election, if one shall occur in not less than 40 days and not more than 90 days after the adoption of such resolution, and if no general election is to occur within such period, said resolution shall fix a date within such period for a special election on such question. After the adoption of such resolution neither the sufficiency nor legality of the petition on which it is based may be questioned in any proceeding.

HISTORY: CL 1915, 2846;—CL 1929, 1766;—CL 1948, 78.4.

78.5 Incorporation, consolidation or change of boundaries; affected district; referendum; authorizing vote.

Sec. 5. The district to be affected by every such proposed incorporation, consolidation or change of boundaries, shall be deemed to include the whole of each city, village, or township from which territory is to be taken or to which territory is to be annexed: Provided, however, That proposed incorporations, consolidations or changes of boundaries shall be submitted to the qualified electors residing within the territory proposed to be incorporated or residing within the village to which territory is to be annexed as the case may be, and also to the qualified electors of the city, village or township, from which the territory to be taken is located and at the election, when the said question is voted upon, the city, village or township shall conduct the election in such manner as to keep the votes of the qualified electors in the territory proposed to be incorporated or annexed or detached in a separate box from the one containing the votes from the remaining portions of such city, village, or township, and if the returns of said election shall show a majority of the votes cast in the district proposed to be incorporated or annexed, voting separately, to be in favor of the proposed incorporation or change of boundary as the case may be, and if a majority of the electors voting in the remainder of the district to be affected as herein defined, voting collectively, are in favor of the proposed incorporation or change of boundary as the case may be, then such territory shall become incorporated as a village or shall become a part of the corporate territory of the village or shall be detached therefrom, as the case may be: Provided further, That in case there are no qualified electors residing within the territory proposed to be detached, or annexed, if a majority of electors voting in the remainder of the district to be affected, as herein defined, are in favor of the proposed change of boundary, then such territory shall become a part of the corporate territory of the village or shall be detached therefrom, as the case may be: Provided further, That the question of incorporating a new village from territory located in a township or townships shall be determined by a majority of the votes cast at an election at which only the electors residing within the territory proposed to be incorporated shall vote.

HISTORY: CL 1915, 2847;—Am. 1919, p. 694, Act 395, Eff. Aug. 14;—Am. 1925, p. 122, Act 90, Eff. Aug. 27;—Am. 1929, p. 611, Act 251, Eff. Aug. 28;—CL 1929, 1767;—CL 1948, 78.5.

78.5a Annexation; petition; vote; approval of adjoining city, village or township.

Sec. 5a. Where the territory proposed to be annexed is adjacent to a village and consists of fractional parts of platted subdivision lots, located in an adjoining city, village or township, annexation may be accomplished upon petition of the property owner by the affirmative majority vote of the legislative body of the village and the approval of the legislative body of the adjoining city, village or township.

HISTORY: Add. 1968, p. 116, Act 71, Imd. Eff. May 28.

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78.6 Petition and resolution; certified copies, transmittal to local clerks, time; election notices.

Sec. 6. The county clerk shall, within 3 days after the passage of the resolution provided for in section 4 of this act, transmit a certified copy of said petition and of such resolution to the clerk of each city, village or township in the district to be affected by the proposed incorporation, consolidation or change, and it shall be the duty of each of said city, village and township clerks to give notice of the date and purpose of the election provided for by said resolution by publication in 1 or more newspapers published within said district at least once in each week for 4 weeks preceding said election, and by posting a like notice in at least 10 public places in said district not less than 10 days prior to such election.

HISTORY: CL 1915, 2848;—CL 1929, 1768;—CL 1948, 78.6.

78.7 Villages in more than one county; incorporation, consolidation or change in boundary, procedure.

Sec. 7. When the territory to be affected by a proposed incorporation, consolidation or change, is situated in more than 1 county, the petition shall be addressed and presented to the secretary of state. The secretary of state shall examine such petition, and the affidavits annexed, and if he shall find that the same conforms to the provisions of this act he shall so certify, and transmit a certified copy of said petition and the accompanying affidavits to the clerk of each city, village or township to be affected by the carrying out of the purposes of such petition, together with his certificate as above provided, and a notice directing that at the next general election occurring not less than 40 days thereafter, the question of making the incorporation, consolidation or change of boundaries petitioned for shall be submitted to the electors of the district to be affected, and if no general election is to be held within 90 days, the notice may fix a date preceding the next general election by at least 60 days for a special election on the question. If he shall find that said petition and the affidavits annexed thereto do not conform to the provisions of this act he shall certify to that fact, and return said petition and affidavits to the person from whom they were received, together with such certificate. The several city, village and township clerks who shall receive from the secretary of state the copies and certificates above provided for, shall give notice of the election to be held on the question of making the incorporation, consolidation or change of boundaries petitioned for in the same manner as provided for in section 6 of this act.

HISTORY: CL 1915, 2849;—Am. 1929, p. 612, Act 251, Eff. Aug. 28;—CL 1929, 1769;—CL 1948, 78.7;—Am. 1960, p. 58, Act 68, Eff. Aug. 17.

78.8 Returns canvass.

Sec. 8. The returns by the several boards of election inspectors shall be made to the clerk of the county in which the village or proposed village, or the greater part thereof, if in more than 1 county, is located, and shall be canvassed on the first Thursday following said election in the manner provided by law for a county canvass.

HISTORY: CL 1915, 2850;—CL 1929, 1770;—CL 1948, 78.8.

78.9 Proceedings; copy filed with secretary of state; recording; change effected; certificate to auditor general, time.

Sec. 9. On the filing in the office of the secretary of state and the clerk of the county or counties within which the village is located, of a copy of the petition, and of every resolution, affidavit or certificate necessarily following such petition with the certificate of the board of county canvassers attached, showing that the purposes of said petition have been approved by a majority of the electors voting thereon as provided in this act, the number of votes cast on such proposition and the number cast for and against the same, the village shall be from that date duly and legally incorporated un-

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der and by the name designated in said petition, or the territory described in said petition shall be duly and legally consolidated as 1 village, or attached to or detached from the village named in such petition, as the case may be, and such petition and the subsequent proceedings thereunder shall be duly recorded in each of said offices in a book to be kept for that purpose, and either of such records or certified copies thereof shall be prima facie evidence of the due and legal incorporation of the village or of the consolidation or change of boundaries prayed for in such petition. Territory detached from any village shall thereupon become a part of the township, village or city from which it was originally taken: Provided, That the secretary of state shall, within 10 days after the filing in his office of the certified copies as required by this section, make and file with the auditor general a certificate showing the name of the village thus incorporated, a description of the land included within the limits of said village, or in case of a change of boundaries of any village a description of the land attached to or detached from such village.

HISTORY: Am. 1911, p. 102, Act 71, Eff. Aug. 1;—CL 1915, 2851;—CL 1929, 1771;—CL 1948, 78.9.

78.10 Annexation of entire village or township; liabilities assumed; property, sale; proceeds, disposition; cemeteries.

Sec. 10. Whenever an entire village or township is annexed to a village, the village to which it is annexed shall succeed to the ownership of all the property of the village or township annexed and shall assume all of its debts and liabilities, and whenever part of a city, village or township is annexed to a village the real property in the territory annexed which belongs to the city, village or township from which it is taken shall be sold by the authorities of the city, village or township in which said land was located before such annexation, and that portion of the proceeds of such sale shall be paid to the village acquiring such territory which shall be in the same ratio to the whole amount received as the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which said territory is taken: Provided, That no cemetery within such territory shall be sold; but to the extent it is owned by the city, village or township within which it was located, it shall become the property of the village to which it is annexed.

Village incorporated from part of township; pro rata distribution of state funds, determination.

Whenever a new village is incorporated from part of a township or townships, such village shall be entitled to its pro rata share of the amount thereafter due such township or townships or due any county agency in respect of population in such township or townships from any future distribution of state sales tax receipts, gasoline and motor vehicle weight tax revenues, intangibles tax revenues, state alcoholic liquor tax revenues, or any other state funds, moneys or grants which, by law, are required to be distributed among cities, villages, townships and/or counties of the state, which pro rata distribution shall be determined as follows, to wit:

Federal census.

(1) According to the last federal census prior to date of distribution but since such annexation, if there be such census, showing the respective population of the township or townships and the municipalities affected;

Special enumeration.

(2) In the absence of such federal census, an official special census shall be taken of that part of the areas of each township which form the newly incorporated village and of the balance of the area of such township or townships. Such census shall be taken by enumerators appointed by the secretary of state upon application by any one of the municipalities affected by such incorporation, which census shall be taken, as near as

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may be, in accordance with the provisions of section 6 of Act No. 279 of the Public Acts of 1909, as amended, the ratio of population between the areas incorporated from each township to form the newly incorporated village and the remainder of the respective township or townships from which the village was incorporated, shall be the basis for determination of the pro rata share of the state funds, moneys or grants to be distributed, and the township or townships from which such incorporated village is incorporated or the county agency receiving the funds, moneys or grants in respect of population in such township or townships shall be liable to the incorporated village for its proper pro rata share of any state funds, moneys or grants received by such township or townships or such county agency, respectively, after the date of incorporation;

Joint resolution of governing bodies.

(3) In the absence of a federal census and in lieu of an official special census determining the respective populations of the municipalities affected by such incorporation, the newly incorporated village and each township from which the same was incorporated, may agree, by joint resolution, as to the prorating between them and between the village and any county agency receiving state funds, moneys or grants in respect of population in such township or townships of any funds, moneys, or grants distributable by the state, a certified copy of which joint resolution shall be filed in the office of the secretary of state and shall be binding upon all parties affected by said incorporation.

Village annexing part of city, village, or township; pro rata distribution of state funds, determination.

Whenever a part of a city, village or township is annexed to a village, the village to which such territory is annexed shall be entitled to its proper pro rata share of any of the said state funds, moneys or grants thereafter distributable under the law to the city, village or township from which said territory was detached or to any county agency receiving state funds, moneys or grants in respect of population in such township or townships, determined as follows:

Federal census.

(1) According to ratio of population between the area annexed and the remainder of the township, city or village from which said area was detached, as determined by the last official federal or state census showing such populations;

Special enumeration.

(2) If there be no official census by which said respective populations can be determined, then a census shall be taken of the territory detached and the remainder of the territory in the township, city or village from which it was detached as provided above in the case of a newly incorporated village;

Joint resolution of governing bodies.

(3) In the absence of a federal census and in lieu of taking an official special census, the village to which said territory was annexed and the cities, townships, or villages from which said territory was detached, may agree by joint resolution of their governing bodies as to the prorating of any such state funds, moneys, or grants between them and between the village and any county agency receiving said funds, moneys, or grants in respect of population in such township or townships as provided above in the case of a newly incorporated village, a copy of which agreement shall be filed with the secretary of state and shall thereafter be binding upon all parties to said incorporation.

The foregoing provisions shall be used hereafter in determining the prorata distributions of any state funds, moneys or grants between townships and/or county agencies and any village which has become newly incorporated since the last decennial federal census, either before or after the passing of this law, and between townships and/or county agencies and any village which has annexed territory since the last decennial

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federal census, either before or after the passing of this law; but in no event shall the sharing of any distribution of state funds, moneys, or grants made previous to the effective date of this law be altered.

Indebtedness and liabilities, pro rata assumption.

The indebtedness and liabilities of every city, village, and township, a part of which shall be annexed to a village, shall be assumed by the village to which the same is annexed in the same proportion which the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which such territory is taken. Assessed valuations shall be determined in every division pursuant to this section from the last assessment roll of the city, village or township which has been confirmed by the board of review.

HISTORY: CL 1915, 2852;—CL 1929, 1772;—Am. 1947, p. 102, Act 92, Eff. Oct. 11;—CL 1948, 78.10.

78.11 New village; charter commission, election, manner, duties, oath; proposed charter, vote, manner; notices.

Sec. 11. At every election on the question of incorporation of a new village, each elector residing within its proposed territorial limits shall also be entitled to vote for 5 electors, residing in the territory which it is proposed to incorporate, as members of a charter commission, and all notices required by section 6 of this act shall include notice of the election thereof. The ballots shall be prepared by the clerk of the county in which the territory is located or if located in more than 1 county, then by the clerk of the county in which the greater portion of the territory is located; the expense to be borne by the county: Provided, however, That if the proposed village shall be incorporated, then the county shall be reimbursed by the village. The county clerk shall prepare the ballot to be used at such election in accordance with the general election laws of the state as follows:

For village incorporation. Yes. ☐
For village incorporation. No. ☐

And such county clerk shall also prepare a separate ballot and place upon the same in alphabetical order having reference to the initial of the surname, without party designation, under the heading "Candidates for members of charter commission," the names of all electors, having the qualifications required by this act for members of charter commissions, who shall file a petition signed by 20 qualified electors residing in the territory proposed to be incorporated, asking that such name be placed upon the ballot. The ballot shall also bear instructions directing that not more than 5 candidates shall be voted for. On the vote being canvassed on the question of incorporation, if the result is determined to be in favor of such incorporation, the board of canvassers shall proceed to canvass the votes cast for members of such commission, and shall certify to the election of the 5 persons receiving the highest number of votes so cast. The members of the commission so elected shall take the constitutional oath of office, and shall have power to fill vacancies in their membership, and 3 or more of them shall constitute a quorum. The charter commission shall convene within 10 days after election and frame a charter for said village within 60 days thereafter. It shall choose its own officers, determine the rules of its proceedings and keep a journal. A roll call of its members on any question shall be entered on the journal at the request of any member. It shall provide the manner of nominating the candidates for the first elective officers provided in the proposed charter. It shall fix the date of the first village election and do and provide all other things necessary for making such nominations and holding such election. Such election may be held at a special election or on the same date as a general election. It shall publish such proposed charter in 1 or more newspapers published in said village, if one is published therein, and if not, then in some newspa-

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per published in the same or an adjoining county and circulating in said villages, at least once, not less than 2 weeks and not more than 4 weeks preceding said election, together with a notice of said election, and that on the date fixed therefor the question of adopting such proposed charter will be voted on, and that the elective officers provided for therein will be elected on the same date. Notice of such election shall also be posted in at least 10 public places within the village not less than 2 weeks prior to such election. Said commission shall provide for 1 or more polling places for said election, and give like notice of their location, and shall appoint the inspectors of said election, and a canvassing board of 3 electors to canvass the votes cast at such election.

HISTORY: CL 1915, 2853;—CL 1929, 1773;—CL 1948, 78.11.

78.12 Village charter; rejection, effect; president de facto; resubmission; revert to prior status.

Sec. 12. If the proposed charter be rejected at such election the election of officers shall be void, except that the elector who shall receive the highest number of votes cast for the office of president shall nevertheless be a de facto officer of such village, until a president for such village is elected and qualified pursuant to a charter of which the electors have approved, and the president so elected shall, after the lapse of 10 days within which petitions for the selection of a new charter commission may be filed as hereinafter stated, if such petition has not been filed with him, by notice, require the said charter commission to reconvene and upon such notice the said charter commission shall reconvene and within 60 days after such notice, provide such revision, amendment or amendments to the original draft of the charter previously prepared by them as to them shall seem fit. The proposed charter, with such amendment or amendments, shall be resubmitted to the qualified electors of said village in the same manner and with like notice and proceedings as required in the first instance, which proceedings shall continue until the qualified electors of said village have, by a majority vote, approved a charter for said village: Provided, That any such proposed charter, as originally submitted or resubmitted with any such amendment or amendments, shall be submitted not to exceed 3 times to the qualified electors of said village, and if rejected 3 times, or in the event that no charter is or has been adopted by the electors of said village during a period of 2 years following the election on the question of the incorporation of said village, the township clerk of the township in which said village is located, or of that township having the largest portion of the population thereof, shall certify such fact to the secretary of state and to the county clerk, register of deeds, and circuit court of the county in which said village is located and the territory of said village shall thereupon revert to the status existing prior to the filing of the petition required by section 2 of this act, and the office of each charter commissioner and de facto officer of the village shall terminate and cease to exist.

HISTORY: CL 1915, 2854;—CL 1929, 1774;—CL 1948, 78.12;—Am. 1952, p. 26, Act 20, Eff. Sep. 18.

78.13 Village charter; new charter commission, petition, procedure, duties; eligibility; expenses, payment; territory, control.

Sec. 13. In cases where the qualified electors of a village shall reject a proposed charter, any 100 electors of said village may petition the de facto president for the selection of a new charter commission, and if said petition shall be filed with the de facto president of said village on or before the expiration of 10 days from the canvass and determination of the vote on said charter, the de facto president of said village shall, if said petition is signed by the requisite number of electors, certify such fact upon said petition and forthwith file the same with the county clerk or secretary of state, depending upon the office in which the original petition was filed, and such county clerk or secretary of state as the case may be, shall give notice of the filing of such petition in the same manner as upon the filing of the original petition and an

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election shall be called and held and a new charter commission shall be elected in the same manner as in the first instance. The duties of the new charter commission shall be the same as those of the former commission, and as many such successive commissions as necessary may be held in like manner until a charter for such village is framed and approved by the electors thereof. All persons who have served on previous charter commissions within 1 year, shall be ineligible as members of every such commission. The first legislative body assembled pursuant to a charter adopted by the electors of such village, shall provide for the payment of the necessary expenses incurred by the county and by the members of such commission or commissions, but the members of the commission shall receive no compensation for their services. The territory constituting the village shall remain under the control and management of the respective cities, villages and townships from which it was taken and the authority of the officers of such cities, villages and townships shall continue until the charter of the new village has been adopted and the officers have been elected and qualified as herein provided.

HISTORY: CL 1915, 2855;—CL 1929, 1775;—CL 1948, 78.13.

78.14 Village charter; revision.

Sec. 14. Any village desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter: When its legislative body shall by a 2/3 vote of the members-elect, declare for a general revision of the charter, or when an initiatory petition signed by qualified electors equal to at least 20 per centum of the total vote cast for president at the last preceding election, and verified by the person or persons who obtained such signatures, shall be presented therefor, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next municipal election or at a special election. In case the electors shall, by a majority vote, declare in favor of such revision, a charter commission shall be selected consisting of 5 electors who are freeholders, to be elected at large on a non-partisan ballot, having a residence of at least 2 years in the municipality. The 5 candidates having the greatest number of votes shall be elected.

HISTORY: Am. 1915, p. 527, Act 298, Imd. Eff. May 19;—CL 1915, 2856;—CL 1929, 1776;—CL 1948, 78.14.

78.15 Election of charter commission; details fixed by legislative body.

Sec. 15. The legislative body of the municipality, unless it is otherwise provided, shall fix in advance of the election of a charter commission, the manner of nominating and electing the same, the place of its meeting, the compensation, if any, of its members, the money for the expense thereof, and provide the ballots for election.

HISTORY: CL 1915, 2857;—CL 1929, 1777;—CL 1948, 78.15.

78.16 Charter commission; quorum.

Sec. 16. A majority of those elected shall constitute a quorum of the commission and its powers and duties shall be the same as those prescribed in section 11 of this act.

HISTORY: CL 1915, 2858;—CL 1929, 1778;—CL 1948, 78.16.

78.17 Charter; amendments, submission.

Sec. 17. Any amendment to any existing charter, whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature, for the government of a village, may be submitted to the electors by a 2/3 vote of the legislative body of the village, or may be petitioned for by not less than 20 per centum of the number of electors voting for president at the last preceding election, which petition shall be verified by the oath of the party or parties securing the same and filed with the village clerk. Every such amendment shall be submitted to the electors at the next general or special election. When the amendment originates in the legislative body, it shall be published and remain on the table for 30 days before action is taken thereon. The form in which any proposed amendment to a village charter shall be submitted on

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the ballot, unless provided for in the initiatory petition, shall be determined by resolution by the legislative body.

HISTORY: Am. 1913, p. 134, Act 95, Imd. Eff. April 21;—CL 1915, 2859;—CL 1929, 1779;—CL 1948, 78.17.

78.18 Charter commission; prosecuting attorneys to give advice; charter vote prerequisites.

Sec. 18. It shall be the duty of the prosecuting attorneys of the several counties, to give advice to any and all charter commissions of this state, as to whether proposed charters contravene the constitution and general laws of this state, and such other information in relation to the formation, amendment or revision of charters as they may require. Every charter framed or revised by a charter commission, and every amendment to a village charter, whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature for the government of a village shall, before its submission to a vote of the electors be presented to the governor of the state. If he shall approve it, he shall sign it; if not he shall return the charter to the commission, and amendment to the legislative body of the village, with his objections thereto, and any information or recommendations he may see fit to submit, which shall be spread at large on the journal of the body receiving them, and it shall reconsider it. On such reconsideration, if 2/3 of the members agree to pass it, it shall be submitted to the voters.

HISTORY: Am. 1913, p. 135, Act 95, Imd. Eff. April 21;—CL 1915, 2860;—CL 1929, 1780;—CL 1948, 78.18.

78.19 Charter; publication prerequisites.

Sec. 19. Every charter and amendment thereto, whether of villages incorporated under this act or under an existing charter of the village heretofore granted or passed by the legislature for the government of a village, before submission to the electors shall be published as provided in section 11 of this act.

HISTORY: Am. 1913, p. 135, Act 95, Imd. Eff. April 21;—CL 1915, 2861;—CL 1929, 1781;—CL 1948, 78.19.

78.20 Charter of amendment; approval; filing time.

Sec. 20. If the charter or any amendment thereto, whether of villages incorporated under this act or under an existing charter of the village heretofore granted or passed by the legislature for the government of a village, be approved, then 2 printed copies thereof, with the vote for and against, duly certified by the village clerk, shall, within 30 days after the vote is taken, be filed with the secretary of state, and a like number with the county clerk, and shall thereupon become law.

HISTORY: Am. 1913, p. 135, Act 95, Imd. Eff. April 21;—CL 1915, 2862;—CL 1929, 1782;—CL 1948, 78.20.

78.21 Election; expenses, manner of conducting.

Sec. 21. All elections held hereunder shall be paid for by the locality where held, and except as otherwise provided herein shall receive such publication and notice as the legislative body may determine, and shall be arranged for, held and conducted by the same officers and in the same manner, as near as may be, as general biennial fall elections.

HISTORY: CL 1915, 2863;—CL 1929, 1783;—CL 1948, 78.21.

78.22 Police officers of village; powers.

Sec. 22. When any person has committed or is suspected of having committed any crime or misdemeanor within a village, whether incorporated under the provisions of this act or under an existing charter of the village heretofore granted or passed by the legislature for the government of a village, or has escaped from any prison of such a village, the police officers of such village shall have the same right to pursue, arrest and detain such person without the village limits as the sheriff of the county.

HISTORY: Am. 1913, p. 135, Act 95, Imd. Eff. April 21;—CL 1915, 2864;—CL 1929, 1784;—CL 1948, 78.22.

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78.22a Justice of the peace; part-time.

Sec. 22a. A village having at least 1 full-time police officer may provide by ordinance for the part-time employment for a salary in lieu of fees of 1 or more of the justices of the peace of the township in which such village is located, who need not be a resident of the village, to hear and determine all cases involving violation of village ordinances.

HISTORY: Add. 1964, p. 64, Act 57, Eff. Aug. 28.

78.23 Charter; mandatory provisions.

Sec. 23. Each village charter as hereafter adopted or amended shall provide:

President, election.

(a) For the election of a president who shall be the executive head, a clerk, and a commission or other body vested with legislative power, and shall fix their compensation. Elections may be by a partisan, non-partisan or preferential ballot or by any other legal method of voting;

Officers, election.

(b) For the election or appointment of such other officers or administrative boards as may be deemed necessary;

Tax procedure.

(c) For the levying and collection of village taxes;

Taxation.

(d) That the subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under the general law;

Annual appropriation.

(e) For an annual appropriation of money for municipal purposes;

Public health, safety.

(f) For the public peace and health, and for the safety of persons and property;

Election districts and elections.

(g) For 1 or more election districts, the time, place and means of holding elections and the registration of electors;

Proceedings journal.

(h) For keeping in the English language a written or printed journal of all proceedings of the legislative body;

Publication of ordinances, adoption of codes, procedure.

(i) For the publication of ordinances before they become operative: Provided, That each village shall have power whether so provided in its charter or not to adopt any plumbing code, electrical code or building code which has been promulgated by the state of Michigan or by any department, board, or other agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such code or codes by reference thereto in an adopting ordinance and without publishing such code in full: Provided, further, That said code is clearly identified in said ordinance and that the purpose of said code shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the village clerk, available for inspection by and distribution to the public at all times: Provided further, That the publication shall contain a notice to the effect that a complete copy of said code is available for public use and inspection at the office of the village clerk;

Public sessions, records.

(j) For all sessions of the legislative body and all records of the municipality to be public;

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Ordinances.

(k) For adopting, continuing, amending or repealing village ordinances;

System of accounts.

(l) And for a system of accounts which shall conform to any uniform system required by law.

HISTORY: CL 1915, 2865;—CL 1929, 1785;—Am. 1941, p. 495, Act 285, Eff. Jan. 10, 1942;—Am. 1947, p. 647, Act 345, Eff. Oct. 11;—CL 1948, 78.23.

78.24 Village charter; permissible provisions.

Sec. 24. Each village may in its charter provide:

Trades, regulations.

(a) For the regulation of trade, occupations and amusements within its boundaries, including the sale of intoxicating liquors and the number of licenses to be issued therefor, but no charter shall permit the sale of such liquors in any county where such sale is prohibited by operation of the general local option law of the state, but may suppress saloons for the sale of spirituous and intoxicating liquors;

Penalties.

(b) For the punishment by proper penalties of those who violate its laws or ordinances, no such penalty, however, to exceed a fine of $100.00 and 90 days' imprisonment in the county jail or village prison, or in any workhouse in the state authorized by ordinance to receive prisoners from such village;

Departments, establishment.

(c) For the establishment of any department that it may deem necessary for the general welfare of the village and for the separate incorporation thereof: Provided, however, That these provisions shall not be construed to extend to public schools;

Streets, use.

(d) For the use and enjoyment of the surface of its streets and of the space above and beneath them;

Improvements, costs, special assessment districts.

(e) For assessing and reassessing the cost, or any portion thereof, of any public improvement to a special district;

Purchase of private property.

(f) For the purchase of private property for any public use or purpose within the scope of its powers;

Heat, light, power, water.

(g) For selling and delivering heat, power and light without its corporate limits to an amount not to exceed 25% of that furnished by it within the corporate limits; and for selling and delivering water outside of its corporate limits in such amount as may be determined by the legislative body of the village;

Sewage and garbage, purchase of lands.

(h) For acquiring by purchase, land without its corporate limits necessary for the disposal of sewage and garbage, or for any purpose authorized by the constitution or general laws;

Property in streets, use by public utility.

(i) For the use upon the payment of reasonable compensation by others than the owner, of property located in streets, alleys and public places and used in the operation of a public utility;

Street plan.

(j) For a plan of streets and alleys within its limits;

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Control of water courses.

(k) For the use, control and regulation of streams, waters and water courses within its boundaries, but not so as to conflict with the laws or action thereunder where a navigable stream is bridged or damned; [sic]

Regulations, enforcement.

(l) For the enforcement of all such local, police, sanitary and other regulations as are not in conflict with the general law;

General municipal powers.

(m) For exercising all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be herein expressly enumerated or not; for any act to advance the interest of the village, the good government and prosperity of the municipality and its inhabitants; and for making all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by the constitution in villages, except where forbidden, or where the subject is covered exclusively by a general law.

HISTORY: CL 1915, 2866;—CL 1929, 1786;—CL 1948, 78.24;—Am. 1955, p. 96, Act 60, Eff. Oct. 14.

78.25 Statutory provisions; adoption.

Sec. 25. Each village may adopt as its charter or any part of the same, any chapter, act or section of the statutes of this state in force at the time of such adoption and not inconsistent with the provisions of this act, which relates to the powers or government of villages generally, either by reciting the same in such charter or by appropriate reference thereto; and except in so far as any of the same may be so adopted, no village shall be subject to any of the limitations or restrictions thereof.

HISTORY: Am. 1913, p. 135, Act 95, Imd. Eff. April 21;—CL 1915, 2867;—Am. 1921, p. 639, Act 349, Eff. Aug. 18; CL 1929, 1787;—CL 1948, 78.25.

78.26 Powers denied.

Sec. 26. No village shall have power:

Submission of charter or revisions, time limitation.

(a) To submit to the electors a charter or any revision thereof oftener than once in every 2 years nor unless it shall be filed with the village clerk 90 days before the election. This provision shall not apply to the submission and resubmission of charters to villages which may be incorporated under this act until they shall have first adopted a charter.

Special elections, number limitations.

(b) To call more than 2 special elections within 1 year. This prohibition shall not apply to elections which may be held in the submission and resubmission of charters to villages which may be incorporated under this act until they shall have first adopted a charter.

Salary or term change after election.

(c) To change the salary or emoluments of any public official after his election or appointment, or during his term of office, where such office is held for a fixed term, nor shall the term of any public official be shortened or extended beyond the period for which he was elected or appointed, unless he be removed for cause.

Charter provisions, vote required.

(d) To adopt any charter or amendment thereto, unless approved by a majority of the electors voting thereon at any general or special election.

Prohibited bond issues.

(e) To authorize any issue of bonds except special assessment bonds, bonds for the village portion of local improvements, not to exceed 40% of the cost of such improve-

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ment, refunding bonds and bonds for relief from fire, flood or calamity or for payment of judgments, unless approved by a majority of the electors voting thereon at any general or special election.

Tax exemption schemes.

(f) To adopt any scheme for exemption from municipal taxation.

Condemnation.

(g) Any village whether incorporated under the provisions of this act or under any existing charter of the village heretofore granted or passed by the legislature for the government of a village, may acquire by purchase or condemnation proceedings land without its corporate limits necessary for the disposal of sewage or the obtaining or protection of a water supply for the village or the inhabitants thereof. The jury in condemnation proceedings shall consist of 12 freeholders drawn from the body of the county, and if they shall determine that such use is necessary, and that the use proposed will not materially injure the health or safety of the persons living adjacent to the land, they shall award the compensation to be paid therefor. Other proceedings in such cases shall conform to the general law authorizing cities and villages to take or hold land or property within their corporate limits.

Repudiation of debts.

(h) To repudiate any debt by any change in its charter or by consolidation with any other municipality.

Prohibited indebtedness; exceptions.

(i) To incur indebtedness by the issue of bonds or otherwise, in any sum which, including existing indebtedness, shall exceed 10% of the assessed valuation of the real and personal property within the village subject to taxation as shown by the last preceding assessment roll of the village. Bonds issued in anticipation of the collection of special assessments shall not be included in this limitation. Moneys on hand in a sinking fund limited to the payment of indebtedness may be treated as a reduction of such indebtedness to that extent. In case of fire, flood or other calamity requiring an emergency fund for the relief of the inhabitants of the village, or for the repairing or rebuilding of any of its municipal buildings, works, bridges or streets, the legislative body of the village may borrow money due in not more than 3 years and in an amount not exceeding 1/4 of 1% of the assessed valuation of such village, notwithstanding such loan may increase the indebtedness of such village beyond the limitations fixed by its charter or in this act. When a village is authorized to acquire or operate any public utility, it may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law. Such mortgage bonds issued beyond the limit of general indebtedness prescribed by law shall not impose any liability upon the village, but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same; which franchise shall in no case extend for a longer period than 20 years from the date of the sale of such utility and franchise on foreclosure.

Prohibited taxes.

(j) To lay or collect taxes for municipal purposes at a rate in excess of 2% of the assessed value of all real and personal property in the village.

Sinking fund requirement.

(k) To issue any bonds without creating a sinking fund for the payment of the same, except special assessment bonds which are a charge upon a special district created for the payment thereof, and serial bonds payable annually.

HISTORY: Sub-section g, Am. 1913, p. 136, Act 95, Imd. Eff. Apr. 21;—CL 1915, 2868;—Am. 1921, p. 639, Act 349, Eff. Aug. 18;—Am. 1925, p. 447, Act 303, Eff. Aug. 27;—Am. 1929, p. 346, Act 153, Eff. Aug. 28;—CL 1929, 1788;—CL 1948, 78.26;—Am. 1966, p. 168, Act 145, Imd. Eff. Jun. 24.

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78.27 Village charter; prohibited conflicts.

Sec. 27. No provision of any village charter shall conflict with or contravene the provisions of any general law of the state, except as in section 25 of this act otherwise provided.

HISTORY: CL 1915, 2869;—Am. 1921, p. 641, Act 349, Eff. Aug. 18;—CL 1929, 1789;—CL 1948, 78.27.

78.28 Construction of act.

Sec. 28. It is hereby intended by this act to reenact sections 17, 18, 19 and 20, as above amended, pursuant to the adoption of the amendment to section 21 of article 8 of the state constitution by vote of the electors on November fifth, 1912, so that villages under existing charters heretofore granted by the legislature shall have the same right and power to amend such charters as villages that have adopted complete charter revisions under the act hereby amended.

HISTORY: Add. 1913, p. 136, Act 95, Imd. Eff. April 21;—CL 1915, 2870;—CL 1929, 1790;—CL 1948, 78.28.

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CHAPTER 79. VILLAGES, SUPPLEMENTAL CHAPTER

LEGALIZED WATER WORKS PROCEEDINGS

Act 26 of 1911

79.1 Water works; legalized existing actions and proceedings.

79.2 Declaration of necessity.

VALIDATION OF ORDINANCES AND FRANCHISE GRANTS

Act 127 of 1913

79.11 Lighting facilities; legalized existing actions and franchises.

SPRINKLING FUND

Act 180 of 1925

79.21 Sprinkling fund.

79.22 Sprinkling fund; disbursements.

VILLAGE COURTHOUSE OR JAIL

Act 209 of 1925

79.41 Jail, courthouse; authorized bonding.

79.42 Power to tax.

79.43 Moneys and bonds; authorizing vote; ballot, form; election.

VALIDATION OF SEWER CONSTRUCTION CONTRACTS

Act 79 of 1963

79.61, 79.62 Expired.

Act 26, 1911, p. 35; Imd. Eff. Mar. 31.

AN ACT to legalize the proceedings taken by any village in the state of Michigan, incorporated under Act No. 3 of the Public Acts of 1895, as amended, authorizing the issuance of bonds for the purpose of securing an additional water supply and extending the municipal lighting plant of any such village.

The People of the State of Michigan enact:

79.1 Water works; legalized existing actions and proceedings.

Sec. 1. Any and all actions and proceedings heretofore taken by any village in the state of Michigan, incorporated under Act No. 3 of the Public Acts of 1895 as amended, and the actions and proceedings taken by the council and officers of any such village, in voting to issue bonds of such village for the purpose of securing an additional water supply and extending the municipal lighting plant of such village, the proposition to issue such bonds having been approved by 2/3 or more of the qualified voters, present and voting at a regular election or a special election called for that purpose, are hereby ratified, confirmed and legalized, regardless of any and all irregularities that may have occurred in the calling and conducting of any election called for the purpose of submitting to the qualified voters of such village, the question of the issuance of such bonds, and regardless of any and all irregularities that may have occurred in the manner of the submission of such question to such qualified voters: Provided, That the bonds so authorized to be issued are not in excess of any constitutional or statutory limitation as to amount.

HISTORY: CL 1915, 2840;—CL 1929, 1761;—CL 1948, 79.1.

NOTE: The portion of Act 3, 1895, as amended, above referred to, is Compilers' §§ 71.1 to 73.1.

79.2 Declaration of necessity.

Sec. 2. It is hereby declared that this act is necessary for the protection of the public health.

HISTORY: CL 1915, 2841;—CL 1929, 1762;—CL 1948, 79.2.

Act 127, 1913, p. 225; Eff. Aug. 14.

AN ACT to legalize and make valid ordinances and local franchise grants heretofore made and granted by villages organized under the general laws of the state.

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The People of the State of Michigan enact:

79.11 Lighting facilities; legalized existing actions and franchises.

Sec. 1. The respective actions of the councils of all villages organized under the general laws of the state, heretofore granting franchises to and making contracts with persons or corporations to use the streets, alleys and public places of such villages for the purpose of supplying such villages or the inhabitants thereof or both, with gas, electric light or other lights for periods of time exceeding 10 years, but not exceeding 30 years, are hereby legalized and made valid: Provided, however, That the action of the said respective councils of said villages granting the said franchises shall have been approved by 3/5 of the electors of such villages voting thereon, at a regular or special municipal election as required by section 25 of article 8 of the constitution of this state.

HISTORY: CL 1915, 2842;—CL 1929, 1793;—CL 1948, 79.11.

LIGHTING FACILITIES: See Compilers' §§ 72.1 to 72.9.

Act 180, 1925, p. 254; Imd. Eff. May 5.

AN ACT to authorize and empower the common council of villages to set aside and expend out of the general fund of such village a sum of money not exceeding 1,500 dollars in any 1 year for the purpose of sprinkling or otherwise moistening the surface of any designated street or streets in such villages.

The People of the State of Michigan enact:

79.21 Sprinkling fund.

Sec. 1. The common council of any incorporated village within this state is hereby authorized and empowered to set aside and expend from and out of the general fund of any such village a sum of money not exceeding 1,500 dollars in any 1 year for the purpose of sprinkling, moistening or in any other manner treating for the purpose of moistening, the traveled portions of any designated street or streets, or parts thereof, in any such village.

HISTORY: CL 1929, 1794;—CL 1948, 79.21.

79.22 Sprinkling fund; disbursements.

Sec. 2. Said sum of money so set aside for the purposes mentioned in section 1 of this act shall be paid out of the general fund in the treasury of said village upon orders or vouchers properly drawn and signed and in the same manner as other village funds are expended and paid out.

HISTORY: CL 1929, 1795;—CL 1948, 79.22.

Act 209, 1925, p. 307; Eff. Aug. 27.

AN ACT to authorize any incorporated village having a population of 1,000 or less, which may be the county seat of any county in this state, to borrow money, and issue bonds therefor, for the purpose of buying or building a courthouse or jail or both for said county in such village, upon approval of the electors of said village.

The People of the State of Michigan enact:

79.41 Jail, courthouse; authorized bonding.

Sec. 1. Any incorporated village having a population of 1,000 or less, which is the county seat of any county in this state, is hereby authorized to borrow on its faith and credit, not to exceed 2 per cent of the assessed valuation of such village for the pur-

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pose of buying or building a courthouse or jail or both for said county in said village. The board of trustees of said village may issue the bonds of the village therefor, in such denominations as it may deem best, at such rate of interest not exceeding the legal rate of interest as it may determine necessary, payable annually, the first payment to be not more than 3 years from the date of issue, and no payment to be less than 1/3 of the largest payment, the last payment being due not more than 30 years from date of issue. Such bonds shall be signed by the president and clerk of said village and sealed with the village seal. The bonds shall be negotiated by and under the direction of the board of trustees of the village, and the proceeds shall be expended under the general supervision and direction of said board of trustees.

HISTORY: CL 1929, 2359;—CL 1948, 79.41.

79.42 Power to tax.

Sec. 2. It shall be the duty of the board of trustees of the said village, to raise by tax, on the taxable property of said village, all such sums from time to time as may be necessary to pay both the principal and interest of said bonds as they may fall due.

HISTORY: CL 1929, 2360;—CL 1948, 79.42.

79.43 Moneys and bonds; authorizing vote; ballot, form; election.

Sec. 3. No money shall be borrowed or bonds issued for the purposes mentioned in this act unless the question of borrowing money and issuing the bonds therefor is submitted to a vote of the qualified electors of such village. Such question shall be submitted upon a resolution of the board or council of such village, and if 3/5 of the qualified electors voting thereon shall vote in favor thereof, then the council shall proceed to borrow the money and issue bonds as directed. The vote on the question of borrowing money shall be by ballot which shall be in substantially the following form:

"Official ballot.

"Vote on the proposition of borrowing ..... dollars and issuing the bonds of the village therefor, such money to be used to buy or build a county courthouse or jail or both in said village.

"Shall the village of ..... borrow ..... dollars and issue the bonds of the village therefor, such money to be used to buy or build a county courthouse or county jail or both, in said village?

Yes ☐
No ☐."

The election shall be called and conducted in the same manner as other elections in said village are held, and the moneys shall be borrowed and bonds issued therefor in all respects except as herein provided in accordance with the provisions of the charter of the village issuing such bonds.

HISTORY: CL 1929, 2361;—CL 1948, 79.43.

Act 79, 1963, p. 92; Imd. Eff. May 8.

AN ACT to authorize and validate certain contracts and agreements of incorporated villages for the construction of sewers; and to provide for the payment of the contract price thereof.

The People of the State of Michigan enact:

79.61, 79.62. Expired June 30, 1964.

Sections (Secs. 1, 2, Act 79, 1963, p. 92, Imd. Eff. May 8) validated village contracts for sewers and connected works and authorized payment of contract price. Sections expired June 30, 1964, by terms of act.

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CHAPTERS 81-113. FOURTH CLASS CITIES

Act 215 of 1895

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Act 215, 1895, p. 389; Eff. Aug. 30.

AN ACT to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission with regard thereto; to define the application of this act and provide for its amendment by cities subject thereto, and to validate such prior amendments and certain prior actions taken and bonds issued by such cities. Am. 1931, p. 389, Act 223, Eff. Sep. 18;—Am. 1954, p. 136, Act 110, Eff. Aug. 13;—Am. 1962, p. 163, Act 161, Imd. Eff. May 10.

The People of the State of Michigan enact:

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CHAPTER I—INCORPORATION.

81.1 Fourth class cities.
81.1a Incorporation of fourth class cities; definitions.
81.1b Fourth class cities; construction of act; validation of amendments and acts.
81.2 Incorporation.
81.3 Incorporation; petition; resolution of council; referendum.
81.4 Election; notices, contents.
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81.7 Election results; adoption, recording; declaration of incorporation, filing.
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81.16 Fourth class cities; judicial notice taken; changes in organization.
81.17 Existing ordinances, by-laws, resolutions.
81.18 Status of former rights; liabilities; remedies.

81.1 Fourth class cities.

Sec. 1. That all cities within the state of Michigan heretofore incorporated and made subject to the provisions of this act or which shall hereafter be incorporated under the provisions of this act, and containing a population not exceeding 10,000 according to the last preceding federal or state census, shall be cities of the fourth class.

HISTORY: CL 1897, 2956;—CL 1915, 2872;—CL 1929, 1796;—CL 1948, 81.1.

CITED IN OTHER SECTIONS: Sections 81.1 to 113.20 are cited in § 123.36.

81.1a Incorporation of fourth class cities; definitions.

Sec. 1a. As used in this act: The phrase "having a population," or any phrase or combination of words of like import, shall be construed to mean "now or hereafter having a population of." The words "last," "latest," "preceding" or "last preceding" used in connection with a "federal" or "United States" or other census, or any words, phrases or combinations of words of like import, shall be construed to also include any such census taken after the enactment of the statute.

HISTORY: Add. 1945, p. 23, Act 25, Eff. Sept. 6;—CL 1948, 81.1a.

81.1b Fourth class cities; construction of act; validation of amendments and acts.

Sec. 1b. No provision of this act shall apply or be construed as having heretofore applied to any city incorporated or reincorporated under Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Compiled Laws of 1948, unless specifically adopted by the electors as a part of its city charter. The provisions of this act shall be deemed to be in the nature of charter provisions for any city incorporated thereunder or subject thereto and any such provision may be altered or removed by amendment adopted by the electors as provided in Act No. 279 of the Public Acts of 1909, as amended, provided that the effect of the amendment is such as might legally be accomplished by charter provision in the case of a city operating under said Act No. 279. All such amendments heretofore so adopted by any city incorporated under or subject to this act, and all actions heretofore taken and all bonds heretofore issued under or in accordance with such amendments, are hereby validated to the same extent as if the foregoing provision had been in effect when such amendments were adopted.

HISTORY: Add. 1962, p. 164, Act 161, Imd. Eff. May 10.

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81.2 Incorporation.

Sec. 2. Any incorporated village containing a population of not less than 3,000 nor more than 10,000 as shown by the last preceding federal or state census may be incorporated as a city of the fourth class, as hereinafter provided.

HISTORY: CL 1897, 2957;—CL 1915, 2873;—CL 1929, 1797;—CL 1948, 81.2.

81.3 Incorporation; petition; resolution of council; referendum.

Sec. 3. Any 100 or more freeholders residing within any such village may present to the council thereof a petition setting forth the population of the village as shown by such census, and asking that such village be incorporated as a city of the fourth class; and if the council shall be satisfied that the village contains the requisite population, as provided in section 2 of this act, they shall by resolution to be entered upon the record of their proceedings, reciting the presentation of said petition and the object thereof, and that the village contains the requisite population, submit the question as to whether the village shall be incorporated as a city of the fourth class to a vote of the electors of the village at the next annual village election.

HISTORY: CL 1897, 2958;—CL 1915, 2874;—CL 1929, 1798;—CL 1948, 81.3.

81.4 Election; notices, contents.

Sec. 4. At least 30 days before the time of holding any election at which the question mentioned in the preceding section shall be submitted to a vote of the electors, the clerk of the village shall give public notice of the time and place of holding such election; and that the question whether the village shall be incorporated as a city of the fourth class under the provisions of this act, will be submitted to vote at the election. Such notice shall be given by posting written or printed copies thereof in 10 of the most public places in the village, and by publishing the same in 1 or more newspapers published in the village, the same length of time before such election.

HISTORY: CL 1897, 2959;—CL 1915, 2875;—CL 1929, 1799;—CL 1948, 81.4.

81.5 Election; qualified voters; form of submission, canvass; return.

Sec. 5. At such election all persons having the qualifications of electors at the annual village elections may vote upon the question of such incorporation, and it shall be the duty of the council to cause to be printed at the foot of the official village ballot, to be used at such election, the question of incorporation proposed to be voted upon, in accordance with the general election laws of the state as follows:

For city incorporation. Yes. ☐
For city incorporation, No. ☐

The inspectors of election shall canvass such votes within the same time and in the same manner as provided for canvassing the votes for village officers, and they shall make return thereof to the village clerk within the time and in the manner provided for making returns of village elections; and the council shall determine the result of the election upon the proposition voted upon the same as upon the election of village officers.

HISTORY: CL 1897, 2960;—CL 1915, 2876;—CL 1929, 1800;—CL 1948, 81.5.

VILLAGE OFFICERS: Election of, see Compilers' §§ 63.1 to 63.13.

81.6 Election; authorizing vote; resolution of council, contents; records.

Sec. 6. After the council shall have determined the result of the election upon the proposition voted upon, as provided in the preceding section, if it shall appear to the council that a majority of all the votes legally given at such election upon the question of such incorporation, were given for the incorporation, the council shall, by a resolution to be entered in the record of their proceedings, recite that at said election, stating the date thereof, the question as to whether said village should be incorporated as

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a city of the fourth class under the provisions of this act, was submitted to a vote of the electors of the village, and that a majority of those voting upon the question, voted for city incorporation; and shall, in the same resolution declare that, in accordance with said vote, the said village shall be and is incorporated as a city of the fourth class by the name of "The city of ..... ". (Stating the name by which the city is to be known).

HISTORY: CL 1897, 2961;—CL 1915, 2877;—CL 1929, 1801;—CL 1948, 81.6.

81.7 Election results; adoption, recording; declaration of incorporation, filing.

Sec. 7. Immediately upon the adoption of the resolution mentioned in the last preceding section, the clerk of the village shall record the same in the record of the proceedings of the council and shall make a copy of so much of the record of the proceedings of the meeting at which the same was adopted, as may be necessary to show the time and place of holding such meeting, and the names of the members of the council who were present, and the passage of said resolution including a true copy thereof. To said copy the clerk and the president of the village shall annex their certificate, under the corporate seal of the village, showing the same to be a true copy of said record; which said certified copy of the record and resolution aforesaid shall be designated as a "declaration of incorporation", and shall be transmitted to, and be filed and recorded in the office of the secretary of state, and a like certified copy or declaration of incorporation shall be filed and recorded in a book to be kept for that purpose, in the office of the county clerk of the county in which said village is located.

HISTORY: CL 1897, 2962;—CL 1915, 2878;—CL 1929, 1802;—CL 1948, 81.7.

81.8 Village deemed fourth class city; evidence.

Sec. 8. When the declaration of incorporation mentioned in the last preceding section shall be filed in the office of the secretary of state, as therein directed, the said village shall be deemed in law to be, and shall be, a city of the fourth class duly incorporated under and subject to the provisions of this act, by the name expressed in said declaration of incorporation; and the declaration of incorporation filed in the office of the secretary of state and in the office of the county clerk aforesaid, or the records thereof, or certified copies of such records shall be prima facie evidence of the due and legal incorporation of such village as a city of the fourth class under the provisions of this act.

HISTORY: CL 1897, 2963;—CL 1915, 2879;—CL 1929, 1803;—CL 1948, 81.8.

81.9 Village deemed fourth class city; officers in power.

Sec. 9. After the incorporation of the village as a city as aforesaid, the government and affairs of the old or village corporation shall continue and proceed as before, and all village officers shall remain in office and exercise their power and duties as village officers, except as herein otherwise provided, until the city officers and members of the council first elected under the new corporation, shall enter upon the duties of their offices.

HISTORY: CL 1897, 2964;—CL 1915, 2880;—CL 1929, 1804;—CL 1948, 81.9.

81.10 Village deemed fourth class city; division into wards.

Sec. 10. Immediately upon filing the declaration of incorporation mentioned in section 7, in the office of the secretary of state, as in that section directed, the council shall proceed to divide the newly incorporated city into wards. If such city contains a population of less than 5,000 persons, they shall divide it into 3 wards; if it contains a

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population of 5,000 and upwards, it may be divided into 4 wards; and a greater number of wards may be established upon the basis of population as provided in section 2 chapter 3 of this act. The division shall be so made as to make the territory and population of the wards as nearly equal as may be.

HISTORY: CL 1897, 2965;—CL 1915, 2881;—CL 1929, 1805;—CL 1948, 81.10.

NOTE: Sec. 2, Ch. 3, above referred to, is Compilers' § 83.2.

81.11 First election of new city; time, procedure.

Sec. 11. The first election in and for the new corporation shall be held on the first Monday in April next after the filing of the declaration of incorporation in the office of the secretary of state: Provided, There shall be sufficient time after the division of the city into wards, to make a registration of the electors, and to give the notice of election hereinafter required; and if there shall not be sufficient time for that purpose, then such first election shall be held on the first Monday of April next thereafter; or the council may appoint a day for the holding of a special election, upon giving like notice as hereinafter required for the holding of such elections.

HISTORY: CL 1897, 2966;—CL 1915, 2882;—CL 1929, 1806;—CL 1948, 81.11.

81.12 First election of new city; prerequisites.

Sec. 12. At least 10 days before the first election in and for the new corporation, the council of the old corporation shall appoint 4 persons in each ward as inspectors of such election therein; and cause notice to be given by the clerk, by handbills posted in 10 of the most public places in each ward, and by publication in 1 or more newspapers printed in the city, of the time and place in each ward of holding such election and of the city and ward officers to be elected; and of the place in each ward where the said inspectors of election will meet on the Saturday next preceding the election to make a registration of the electors of the new city corporation, and that no person, unless registered in such registry, can be permitted to vote at such elections. Said council shall also procure books of registry of the form required by law for the registration of electors in cities, and deliver them to said inspectors.

HISTORY: CL 1897, 2967;—CL 1915, 2883;—CL 1929, 1807;—CL 1948, 81.12.

81.13 Inspectors of election; oath, duties.

Sec. 13. The inspectors of election appointed as provided in the preceding section, shall constitute boards of registration for their respective wards for the purpose of making the first registry of the electors therein. They shall take and file with the clerk the oath of office required in this act to be taken by city officers; and shall meet in their respective wards on the day and place appointed in the notice mentioned in the preceding section, and there make a registry of all persons in the wards qualified by law to be registered as electors therein. In making such registry they shall proceed in the manner provided by law for making the registry of electors in cities. Such registry, when completed, shall be the registry of electors of the several wards of the city.

HISTORY: CL 1897, 2968;—CL 1915, 2884;—CL 1929, 1808;—CL 1948, 81.13.

81.14 Inspectors of first election; duties.

Sec. 14. Said inspectors shall be inspectors of such first election in their respective wards, and shall have the same powers, and perform the same duties at the election, and in respect to the canvass of the votes, and in making and returning written state-

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ments and certificates of the votes cast, and for whom given, as are required of inspectors at annual city elections provided for in this act, except that said written statements and certificates shall be deposited with the village clerk, and the village council shall respectively perform the same duties in respect to the canvass of the votes and returns, and in determining and certifying what persons were elected to office, and in notifying such persons of their election as are required of the city clerk and council in respect to said annual city elections.

HISTORY: CL 1897, 2969;—CL 1915, 2885;—CL 1929, 1809;—CL 1948, 81.14.

81.15 Fourth class city; bodies corporate.

Sec. 15. All cities organized under or made subject to the provisions of this act shall be bodies politic and corporate under and by the name assumed by them in their declaration of incorporation, or designated in their acts of incorporation; and by such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the purposes for which they are incorporated, have a common seal and change the same at pleasure, and exercise all the powers in this act conferred.

HISTORY: CL 1897, 2970;—CL 1915, 2886;—CL 1929, 1810;—CL 1948, 81.15.

See notes to Compilers' § 61.12.

81.16 Fourth class cities; judicial notice taken; changes in organization.

Sec. 16. Judicial notice shall be taken in all courts and proceedings in this state, of the existence of all cities incorporated or made subject to the provisions of this act, and of the change of organization of any city or village from its former organization to its incorporation under or subject to the provisions of this act, and of all changes at any time made in the corporate limits of any city, by the annexation of territory thereto or otherwise, and of the boundaries of all wards, and of all changes made at any time in the boundaries of any ward in any such city; and from the time of such incorporation or change of organization the provisions of this act shall be applicable to such cities, and all laws in conflict therewith shall no longer be applicable.

HISTORY: CL 1897, 2971;—CL 1915, 2887;—CL 1929, 1811;—CL 1948, 81.16.

81.17 Existing ordinances, by-laws, resolutions.

Sec. 17. All ordinances, by-laws, and resolutions, in force in any village, when it shall be incorporated under this act and not inconsistent herewith, shall continue in full force and effect until repealed or amended by the city council.

HISTORY: CL 1897, 2972;—CL 1915, 2888;—CL 1929, 1812;—CL 1948, 81.17.

81.18 Status of former rights; liabilities; remedies.

Sec. 18. All rights and property of any kind and description which were vested in any village corporation under its former organization shall, upon its incorporation, subject to this act be deemed and held to be vested in the new corporation; and no rights or liabilities, either in favor of or against such former corporation, existing at the time of its incorporation, under this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of the new corporation, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made: Provided, That when a different remedy is given in this act, which can be made applicable to any rights existing at the time of the incorpora-

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tion of the city under this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

HISTORY: CL 1897, 2973;—CL 1915, 2889;—CL 1929, 1813;—CL 1948, 81.18.

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CHAPTER II—CHANGES OF BOUNDARIES.

82.1 Change of boundaries; procedure; order of determination, entry upon records; approval by electors of territory affected.

82.2 Change of boundaries; rights and liabilities of annexed territory.

82.1 Change of boundaries; procedure; order of determination, entry upon records; approval by electors of territory affected.

Sec. 1. Whenever the council of any city shall determine by resolutions to alter the boundaries of such city, either by taking in lands and premises adjoining thereto, or by taking out any lands and premises included in such city, or both, they shall petition the board of supervisors of the county in which such lands and premises affected thereby are situated to make such change. Such petition shall contain a description by metes and bounds of the lands and premises proposed to be added to or taken out of such city and be accompanied by a map of said lands, and set forth the reasons for the proposed change, and shall contain a copy of the resolution of the council in relation thereto, and shall be certified to by the clerk under the official seal of such city. Before such petition shall be presented to the board of supervisors, notice shall be given by the city clerk of the time and place when the same will be presented for consideration, by publishing the same in 1 or more newspapers published in such city for at least 3 weeks immediately preceding the presentation of the same. Such notice shall also contain a description of the premises proposed to be taken in or out of the boundaries of such city. At the time of presenting such petition all parties interested may appear before such board of supervisors and be heard touching the proposed boundaries of such city, and after such hearing and due consideration of such petition, it shall be the duty of the board of supervisors to order and determine as to whether the prayer contained in the petition or any part thereof shall be granted, and they shall make an order of such determination, which order shall be entered upon their records, and thereupon, if a change of boundaries shall be ordered, then such boundaries of the city shall be fixed and shall exist as provided in such order, and a certified copy thereof shall be transmitted to the clerk of such city and to the secretary of state, and such order shall be prima facie evidence of such change of boundaries of such city and of the regularity of such proceedings in all courts and places: Provided, That the board of supervisors shall not change the boundaries of any city in such a manner as to affect the boundaries of a representative district at a time when changes in the boundaries of representative districts are prohibited: Provided further, That excepting totally uninhabited territory and state owned lands, the board of supervisors shall not so change the boundaries of any such city, until such change shall have been approved by a majority vote of the duly qualified electors of the territory proposed to be added to or taken out of such city, voting at a special election called for that purpose. Such election shall be called and conducted by the clerk of the city, village or township in which such territory lies, within 60 days after receiving notification from the board of supervisors. If such notification be given within 40 days of any general election, the special election shall be held at the same time as such general election. Any such special election shall be advertised and conducted in accordance with the election laws of this state.

HISTORY: CL 1897, 2974;—CL 1915, 2890;—CL 1929, 1814;—Am. 1945, p. 253, Act 184, Eff. Sept. 6;—CL 1948, 82.1.

82.2 Change of boundaries; rights and liabilities of annexed territory.

Sec. 2. Whenever any city incorporated subject to the provisions of this act shall have its boundaries changed by the addition of any territory thereto, or by the taking of any territory therefrom, the rights and interests of the township or city from which such territory shall be taken or to which it shall be annexed as well as the rights of the

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persons affected by reason of such change of boundary, shall be settled and adjusted in accordance with the general laws of this state in such cases made and provided.

HISTORY: CL 1897, 2975;—CL 1915, 2891;—CL 1929, 1815;—CL 1948, 82.2.

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CHAPTER III—WARDS.

83.1 Existing wards.
83.2 Wards; number, apportionment.
83.3 Wards; existing ward officers or aldermen.
83.4 New wards; aldermen, terms.

83.1 Existing wards.

Sec. 1. The wards established by the council as provided in section 10, chapter 1 of this act, and the wards established in any incorporated city at the time of its re-incorporation under the provisions of this act, shall continue to be the wards of such city until changed by the legislature.

HISTORY: CL 1897, 2976;—CL 1915, 2892;—CL 1929, 1816;—CL 1948, 83.1.

NOTE: Sec. 10, Ch. 1, above referred to, is Compilers' § 81.10.

83.2 Wards; number, apportionment.

Sec. 2. Any city having a population of less than 5,000 inhabitants may be divided into 3 wards. If it contains a population of 5,000 or upwards it may be divided into 4 wards, and an additional ward for every additional 2,000 inhabitants above 5,000 and up to 10,000. But any city having, at the time of its being brought under or subject to the provisions of this act, a greater number of wards in proportion to its population than above mentioned, shall not be required to diminish the number of its existing wards.

HISTORY: CL 1897, 2977;—CL 1915, 2893;—CL 1929, 1817;—CL 1948, 83.2.

83.3 Wards; existing ward officers or aldermen.

Sec. 3. No election of aldermen or ward officers shall be held in any newly established ward, or in any ward, on account of changes in the boundaries thereof, previous to the next annual city election; nor shall the office of any alderman or other officer elected in any ward be vacated by reason of any change in such ward; but any such alderman and other officer shall, during the remainder of his term, continue in office and to represent the ward including the place of his residence at the time of the change of the boundaries of the ward, unless the office become vacant for some other cause.

HISTORY: CL 1897, 2978;—CL 1915, 2894;—CL 1929, 1818;—CL 1948, 83.3.

83.4 New wards; aldermen, terms.

Sec. 4. When by the creation of a new ward 2 aldermen are to be elected therein at the same time, 1 of them shall be elected for 1 year, and 1 for 2 years, and the term of each shall be designated on the ballot.

HISTORY: CL 1897, 2979;—CL 1915, 2895;—CL 1929, 1819;—CL 1948, 83.4.

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CHAPTER IV—ELECTORS AND REGISTRATION.

84.1 Electors; qualifications, residence.
84.2 Voting precincts; division of ward, procedure.
REGISTRATION
84.3 Board of registration; members.
84.4 Registration; change in ward; register entries.
84.5 New ward or district; new register; notice.
84.6 Ward as election district; board of registration; registration.
84.7 Board of registration; meetings, notice; construction of act.
84.8 Re-registration; notice, manner.

84.1 Electors; qualifications, residence.

Sec. 1. The inhabitants of cities having the qualifications of electors under the constitution of the state and statutes enacted thereunder, and no others, shall be electors therein.

HISTORY: CL 1897, 2980;—CL 1915, 2896;—CL 1929, 1820;—CL 1948, 84.1;—Am. 1963, 2nd Ex. Ses., p. 9, Act 2, Imd. Eff. Dec. 27.

84.2 Voting precincts; division of ward, procedure.

Sec. 2. The council of any city having more than 650 electors in any ward of the city, according to the poll list of the last preceding election shall cause such ward to be divided into 2 or more voting districts. The manner of making such division, the creation of election inspectors and boards of registration therein, and all matters pertaining to such division and the holding of elections in such districts, not covered by the provisions of this chapter, shall be provided for by the council making such division.

HISTORY: CL 1897, 2981;—CL 1915, 2897;—CL 1929, 1821;—CL 1948, 84.2.

REGISTRATION.

84.3 Board of registration; members.

Sec. 3. The aldermen of each ward shall constitute the board of registration therein, except as in this act otherwise provided. If, by reason of a change of boundary of any ward, or the formation of a new ward, or the formation of more than 1 election district in a ward, or other cause, there shall not be any or a sufficient number of aldermen representing such ward or residing within each election district, to constitute a board of registration of 2 persons, the council shall supply the vacancy or appoint a board of registration for the ward or election district. The members composing such board of registration shall receive 2 dollars per day as compensation.

HISTORY: CL 1897, 2982;—CL 1915, 2898;—CL 1929, 1822;—CL 1948, 84.3.

84.4 Registration; change in ward; register entries.

Sec. 4. When changes shall be made in any ward or wards, or a new ward shall be formed in whole or in part from the territory of other wards, or when a ward shall be divided into voting districts, the boards of registration of the respective wards or voting districts affected by the change shall meet previous to the time prescribed by law for giving notice of their sessions preceding the next election, and the name of each registered elector known to have been transferred by such change from 1 ward to another ward, or to a new ward, or from 1 voting district to another, shall be copied into the register of the ward or district to which the transfer was made, and be stricken from the register of the ward or district from which the elector was transferred by the change.

HISTORY: CL 1897, 2983;—CL 1915, 2899;—CL 1929, 1823;—CL 1948, 84.4.

84.5 New ward or district; new register; notice.

Sec. 5. When a new ward or voting district shall be formed, the board of registration thereof, at its session next preceding the next election therein, shall make or complete a new register of the electors residing therein, and for that purpose shall remain in ses-

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sion 2 days, and notice of the formation of such ward or district, and that a new register of the electors will be made at that session, shall be given with the notice required by law to be given of such session of the board.

HISTORY: CL 1897, 2984;—CL 1915, 2900;—CL 1929, 1824;—CL 1948, 84.5.

84.6 Ward as election district; board of registration; registration.

Sec. 6. Each ward, unless otherwise subdivided, shall be an election district. On the Saturday next preceding a general election, and on the Saturday next preceding the day of the regular city election, or any special election, and on such other days as shall be appointed by the council, not exceeding 3 days in all, previous to any such election, the several boards of registration for the city, except as in this act otherwise provided, shall be in session at such places in their several wards as shall be designated, as hereinafter provided, from 8 o'clock in the forenoon until 8 o'clock in the afternoon, for the purpose of completing the lists of the qualified voters; during which session it shall be the right of each person then actually residing in the ward or voting district, and who, at the then next approaching election may be a qualified elector and whose name is not already registered, to have his name entered in the register of such ward or voting district.

HISTORY: CL 1897, 2985;—CL 1915, 2901;—CL 1929, 1825;—CL 1948, 84.6.

84.7 Board of registration; meetings, notice; construction of act.

Sec. 7. At least 2 weeks previous to the commencement of any such session of the several boards of registration, the council shall fix the place in each ward and voting district of the city where the board of registration will meet, and at least 8 days before such session of the board, the city clerk shall give notice by handbills posted in 10 public places in each ward or voting district, and by publication in 1 or more newspapers printed in the city, of the time and place in each ward or voting district when and where the board of registration for such ward and voting district will meet. Except as in this act otherwise provided, the general laws of this state relating to the registration of electors in cities shall apply to the registration of electors in cities incorporated under or made subject to the provisions of this act.

HISTORY: CL 1897, 2986;—CL 1915, 2902;—CL 1929, 1826;—CL 1948, 84.7.

84.8 Re-registration; notice, manner.

Sec. 8. The boards of registration in cities incorporated under this act at their sessions previous to the general election in November, in the year 1896, shall make a re-registration of the qualified electors of their respective wards, in books of the form provided by law. The same rules shall be observed in such re-registration as are provided by law for the registration of electors in cities; and a like re-registration of the electors of each ward shall be made at the session of the board next preceding the general election, in the year 1900, and every fourth year thereafter. When such new registry shall be made the former registry of electors shall not be used, nor shall any person vote at any election in such ward after such re-registration unless his name shall be registered in such new register. Notice that such re-registration is required to be made shall be given with the notice of the meeting or session of the board at which it is to be made.

HISTORY: CL 1897, 2987;—CL 1915, 2903;—CL 1929, 1827;—CL 1948, 84.8.

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CHAPTER V—OFFICERS.

85.1 Election of certain city officers.
85.2 Ward officers; election, term.
85.3 City officers; appointment, manner; powers, duties.
85.4 City officers; appointment, time.
85.5 First election; officers elected, term.
85.6 City officers; terms.
85.7 Appointive officers; terms, vacancies.
85.8 Date of entry on duties.

QUALIFICATIONS, OATH AND BOND OF OFFICE

85.9 City offices; qualifications; defaulters, election or appointment void.
85.10 Oath of office; justice of the peace, city officers.
85.11 Bond; justice of the peace; city officers.
85.12 Required bond; sufficiency of sureties, inquiry; examination annexed to bond.
85.13 New bonds; failure to comply.

VACANCIES IN OFFICE

85.14 Resignations.
85.15 Office declared vacant.
85.16 Office declared vacant; failure to file oath or bond.
85.17 Vacancies; filling.
85.18 Vacating officer; liabilities.
85.19 Property turned over to successor; penalty.

85.1 Election of certain city officers.

Sec. 1. In cities incorporated under this act the following city officers, namely, a mayor, city clerk, city treasurer, and 2 justices of the peace, shall be elected by the qualified voters of the whole city.

HISTORY: CL 1897, 2988;—CL 1915, 2904;—CL 1929, 1828;—Am. 1931, p. 131, Act 84, Eff. Sept. 18;—CL 1948, 85.1.

85.2 Ward officers; election, term.

Sec. 2. In each ward a supervisor, 2 aldermen and a constable shall be elected: Provided, That the council of any city re-incorporated under and made subject to the provisions of this act, which at the time of such re-incorporation shall have but 2 wards, may provide by ordinance for the election of 2 additional aldermen, to be known as aldermen at large, and to be elected by the qualified electors of the whole city. At the first election held under this act 1 of such aldermen shall be elected for a term of 1 year and 1 for a term of 2 years, and annually thereafter 1 shall be elected for a term of 2 years.

HISTORY: CL 1897, 2989;—CL 1915, 2905;—CL 1929, 1829;—CL 1948, 85.2.

85.3 City officers; appointment, manner; powers, duties.

Sec. 3. The following officers shall be appointed by the mayor, by and with the consent of the council, [viz.] namely, a city attorney, city marshal, street commissioner, city surveyor, a city assessor when provided for and a chief engineer of the fire department. The council may also, from time to time, provide by ordinance for the appointment of, for such term as may be provided in the ordinance, such other officers whose election or appointment is not herein specially provided for, as the council shall deem necessary for the execution of the powers granted by this act. All such appointments shall be made by the mayor, by and with the consent of the council, and their powers and duties shall be prescribed by ordinance, but the mayor shall have no vote in the council on the question of his appointments of above named officers.

HISTORY: CL 1897, 2990;—CL 1915, 2906;—CL 1929, 1830;—CL 1948, 85.3.

85.4 City officers; appointment, time.

Sec. 4. Appointments to office, except appointments to fill vacancies, shall be made on the first Monday of May in each year; but appointments which for any cause shall not be made on that day may be made by the mayor and confirmed at any subsequent regular meeting of the council.

HISTORY: CL 1897, 2991;—CL 1915, 2907;—CL 1929, 1831;—CL 1948, 85.4.

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85.5 First election; officers elected, term.

Sec. 5. At the first election held in any city incorporated under this act, 2 justices of the peace shall be elected; also 2 aldermen in each ward, but in cities re-incorporated under this act, the aldermen elected under the former corporation, shall continue in office for the term for which they were elected; and, at such first election, such number of aldermen only shall be elected, as with those continuing in office as aforesaid, shall make the requisite number of aldermen as required by this act, and the terms of the aldermen first elected as aforesaid, shall be so arranged that 1 alderman for each ward shall be elected annually thereafter. In all such cities re-incorporated under the provisions of this act, the then existing justices of the peace shall hold their offices until the fourth day of July next after such first election, and no longer, and at such first election 2 justices of the peace shall be elected, 1 for the term of 2 years and 1 for the term of 4 years from the fourth day of July next thereafter and the term for which each is elected shall be designated upon the ballots cast for him, and biennially thereafter 1 justice of the peace shall be elected for a term of 4 years: Provided, That whenever any city re-incorporated under this act shall at the time of such re-incorporation have but 2 justices of the peace, whether elected by wards, districts, or by the city at large, such justices shall hold their respective offices until the expiration of the term for which they were respectively elected, and thereafter their successors shall be elected for the term of 4 years as provided in this act.

HISTORY: CL 1897, 2992;—CL 1915, 2908;—CL 1929, 1832;—CL 1948, 85.5.

VACANCIES: See Sec. 7 of Act 199 of 1923, being Compilers' § 201.37; Act 76 of 1917, being Compilers' § 201.51.

85.6 City officers; terms.

Sec. 6. The mayor, city clerk, city treasurer, supervisors and constables shall hold their offices for the term of 1 year from the second Monday in April of the year when elected, and until their successors are qualified and enter upon the duties of their offices.

HISTORY: CL 1897, 2993;—CL 1915, 2909;—CL 1929, 1833;—CL 1948, 85.6.

85.7 Appointive officers; terms, vacancies.

Sec. 7. All officers appointed by the mayor or council, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the first Monday of May next after such appointment, and until their successors are qualified and enter upon the duties of their office, unless a different term of office shall be provided in this act, or in the ordinance creating the office. Any officer elected to fill a vacancy shall hold the office during the residue of the term of office in which the vacancy occurred, and any officer appointed to fill a vacancy in any elective office shall hold such office until the next annual city election.

HISTORY: CL 1897, 2994;—CL 1915, 2910;—CL 1929, 1834;—CL 1948, 85.7.

VACANCIES: See Sec. 7 of Act 199 of 1923, being Compilers' § 201.37; Act 76 of 1917, being Compilers' § 201.51.

85.8 Date of entry on duties.

Sec. 8. Justices of the peace not elected to fill vacancies shall enter upon the duties of their offices on the fourth day of July next after their election. In all other cases officers shall enter upon the duties of their offices on the second Monday of April of each year, unless herein otherwise provided for.

HISTORY: CL 1897, 2995;—CL 1915, 2911;—CL 1929, 1835;—CL 1948, 85.8.

QUALIFICATIONS, OATH AND BOND OF OFFICE.

85.9 City offices; qualifications; defaulters, election or appointment void.

Sec. 9. No person shall be elected or appointed to any office unless he be an elector of the city, and if elected or appointed for a ward, he must be an elector thereof; and no person shall be elected or appointed to any office in the city who has been or is a defaulter to the city or to any board or officers thereof, or to any school district,

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county, or other municipal corporation of the state. All votes for, or any appointment of, any such defaulter shall be void.

HISTORY: CL 1897, 2996;—CL 1915, 2912;—CL 1929, 1836;—CL 1948, 85.9.

85.10 Oath of office; justice of the peace, city officers.

Sec. 10. Justices of the peace elected in any city shall take and file an oath of office with the county clerk of the county in which the city is located within the same time and in the same manner as in cases of justices of the peace elected in townships. All other officers elected or appointed in the city, shall, within 10 days after receiving notice of their election or appointment, take and subscribe the oath of office prescribed by the constitution of the state and file the same with the city clerk.

HISTORY: CL 1897, 2997;—CL 1915, 2913;—CL 1929, 1837;—CL 1948, 85.10.

CONSTRUED: As to justices' oath and bonds, see Compilers' § 41.90.

85.11 Bond; justice of the peace; city officers.

Sec. 11. Every justice of the peace, within the time limited for filing his official oath, shall file with the county clerk, mentioned in the preceding section, the security for the performance of the duties of his office, required by law in the case of justices of the peace elected in townships; except that said official bond or security may be executed in presence of, and be approved by the mayor; and in case he shall enter upon the execution of the duties of his office before having filed his official oath and bond or security and such other bond or security to the city as may be required by law or by any ordinance or resolution of the council, he shall be liable to the same penalties as are provided in cases of justices of the peace elected in townships; and every other officer elected or appointed in the city before entering upon the duties of his office and within the time prescribed for filing his official oath, shall file with the city clerk such bond or security as may be required by law or by any ordinance or requirement of the council, and with such sureties as shall be approved by the council, for the due performance of the duties of his office, except that the bond or security of the clerk shall be deposited with the city treasurer.

HISTORY: CL 1897, 2998;—CL 1915, 2914;—CL 1929, 1838;—CL 1948, 85.11.

BOND OF JUSTICE: See Compilers' §§ 41.91, 41.93.

85.12 Required bond; sufficiency of sureties, inquiry; examination annexed to bond.

Sec. 12. The council, or the mayor, or other officer whose duty it shall be to judge of the sufficiency of the proposed sureties of any officer or person of whom a bond or any security may be required by this act or by any ordinance or direction of the council, shall inquire into the sufficiency of such sureties, and may examine them under oath as to their property; such oath may be administered by the mayor, or any alderman or other person authorized to administer oaths. The examination of any such surety shall be reduced to writing and be signed by him, and annexed to and filed with the bond or instrument to which it relates.

HISTORY: CL 1897, 2999;—CL 1915, 2915;—CL 1929, 1839;—CL 1948, 85.12.

BONDS: As to official bonds and liability of sureties thereon, see Compilers' § 45.319.

85.13 New bonds; failure to comply.

Sec. 13. The council may also at any time require any officer, whether elected or appointed, to execute and file with the clerk of the city, new official bonds in the same or in such further sums, and with new or such further sureties as said council may deem requisite for the interest of the corporation. Any failure to comply with such requirement shall subject the officer to immediate removal by the council.

HISTORY: CL 1897, 3000;—CL 1915, 2916;—CL 1929, 1840;—CL 1948, 85.13.

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VACANCIES IN OFFICE.

85.14 Resignations.

Sec. 14. Resignation of officers shall be made to the council.

HISTORY: CL 1897, 3001;—CL 1915, 2917;—CL 1929, 1841;—CL 1948, 85.14.

VACANCIES IN PUBLIC OFFICE: In general see Compilers' § 201.1 et seq., and in particular, as to cities, see Compilers' § 201.37.

85.15 Office declared vacant.

Sec. 15. If any officer shall cease to be a resident of the city, or if elected in and for a ward, shall remove therefrom during his term of office, the office shall thereby be vacated. If any officer shall be a defaulter the office shall thereby be vacated.

HISTORY: CL 1897, 3002;—CL 1915, 2918;—CL 1929, 1842;—CL 1948, 85.15.

85.16 Office declared vacant; failure to file oath or bond.

Sec. 16. If any person elected or appointed to office shall fail to take and file the oath of office, or shall fail to give the bond or security required for the due performance of the duties of his office, within the time herein limited therefor, the council may declare the office vacant, unless previous thereto he shall file the oath and give the requisite bond or security.

HISTORY: CL 1897, 3003;—CL 1915, 2919;—CL 1929, 1843;—CL 1948, 85.16.

85.17 Vacancies; filling.

Sec. 17. In case any vacancy occurs in the office of mayor, or in any other elective office, except justice of the peace, constable and school trustee, as hereinafter provided, the council may fill such vacancy by appointment at any time within 20 days after such vacancy occurs, or may, within such time, call a special election for the purpose of filling such vacancy, as they may deem for the best interest of the city. Vacancies in the office of justice of the peace and constable shall be filled at the next annual election or at a special election called for that purpose. Vacancies in any appointive office shall be filled within 20 days after such vacancy occurs, by the mayor by and with the consent of the council.

HISTORY: CL 1897, 3004;—CL 1915, 2920;—CL 1929, 1844;—CL 1948, 85.17.

VACANCY: For manner of filling vacancy in office of justice of the peace, see Act 76, 1917, being Compilers' § 201.51; for other elective and appointive offices, see Sec. 7 of Act 199, 1923, being Compilers' § 201.37.

85.18 Vacating officer; liabilities.

Sec. 18. The resignation or removal of any officer shall not, nor shall the appointment or election of another to the office, exonerate such officer or his sureties from any liability incurred by him or them.

HISTORY: CL 1897, 3005;—CL 1915, 2921;—CL 1929, 1845;—CL 1948, 85.18.

85.19 Property turned over to successor; penalty.

Sec. 19. Whenever any officer shall resign or be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor in office all the books, papers, moneys and effects in his custody as such officer, and in any way appertaining to his office; and every person wilfully violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as public officers may be proceeded against for the like offense, under the general laws of this state now or hereafter in force and applicable thereto; and every officer appointed or elected under this act shall be deemed an officer within the meaning and provisions of such general laws of the state.

HISTORY: CL 1897, 3006;—CL 1915, 2922;—CL 1929, 1846;—CL 1948, 85.19.

MISDEMEANOR: Punishment, see Compilers' § 750.504.

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CHAPTER VI—ELECTIONS.

86.1 Annual city election; time, place.
86.2 Special election; resolution of council.
86.3 Special election; notice, contents.
86.4 Elections; notice, publication.
86.5 Elections; ballot boxes.
86.6 Polls; opening and closing proclamation.
86.7 Board of election inspectors; members, vacancy, compensation.
86.8 Board of election inspectors; chairman, clerk, oath.
86.9 Board of election inspectors; state, county, district elections.
86.10 Elections; manner conducted.
86.11 Election commissioners; appointment, duties.
86.12 Vote by ballot.
86.13 Canvass of returns; certificate, filing.
86.14 Candidate elected; tie.
86.15 Notification of election.
86.16 Oath of office or bond; failure to file; notice by clerk.

86.1 Annual city election; time, place.

Sec. 1. An annual city election shall be held on the first Monday in April in each year, at such place or places in each of the several wards of the city, as the council shall designate.

HISTORY: CL 1897, 3007;—CL 1915, 2923;—CL 1929, 1847;—CL 1948, 86.1.

86.2 Special election; resolution of council.

Sec. 2. Special elections may be appointed by resolution of the council, and held in and for the city, or in and for any ward thereof, at such times and place or places as the council shall designate; the purpose and object of which shall be fully set forth in the resolution appointing such election.

HISTORY: CL 1897, 3008;—CL 1915, 2924;—CL 1929, 1848;—CL 1948, 86.2.

ELECTION LAW: See Act 351 of 1925, being Compilers' § 145.1 et seq.

86.3 Special election; notice, contents.

Sec. 3. Whenever a special election is to be held the council shall cause to be delivered to the inspectors of election in the ward or wards where the same is to be held, a notice signed by the city clerk, specifying the officer or officers to be chosen, and the question or proposition, if any, to be submitted to the vote of the electors, and the day and place at which such election is to be held, and the proceedings and manner of holding the election shall be the same as at the annual elections.

HISTORY: CL 1897, 3009;—CL 1915, 2925;—CL 1929, 1849;—CL 1948, 86.3.

86.4 Elections; notice, publication.

Sec. 4. Notice of the time and place or places of holding any election and of the officers to be elected and the questions to be voted upon, shall except as herein otherwise provided, be given by the city clerk, at least 10 days before such election, by posting such notices in 3 public places in each ward in which the election is to be held, and by publishing a copy thereof in 1 or more newspapers published in the city, the same length of time before the election, and in case of a special election the notice shall set forth the purpose and object of the election as fully as the same are required to be set forth in the resolution appointing such election.

HISTORY: CL 1897, 3010;—CL 1915, 2926;—CL 1929, 1850;—CL 1948, 86.4.

NOTICE OF ELECTION: See notes to Compilers' § 63.4.

86.5 Elections; ballot boxes.

Sec. 5. The council shall provide and cause to be kept by the city clerk, for use at all elections, suitable ballot boxes of the kind required by law to be kept and used in townships.

HISTORY: CL 1897, 3011;—CL 1915, 2927;—CL 1929, 1851;—CL 1948, 86.5.

86.6 Polls; opening and closing proclamation.

Sec. 6. On the day of elections, held by virtue of this act, the polls shall be opened in each ward, at the several places designated by the council, at 7 o'clock in the morning

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or as soon thereafter as may be, and shall be kept open until 5 o'clock in the afternoon, at which hour they shall be finally closed.

The inspectors shall cause proclamation to be made upon opening the polls, and shall also cause proclamation to be made of the closing of the polls, 1 hour, 30 minutes and 15 minutes respectively, before the closing thereof.

HISTORY: CL 1897, 3012;—CL 1915, 2928;—CL 1929, 1852;—CL 1948, 86.6.

86.7 Board of election inspectors; members, vacancy, compensation.

Sec. 7. The supervisor and 2 aldermen of each ward when eligible and 1 elector of the ward to be appointed by the council shall, except as in this act otherwise provided, constitute the board of inspectors of election. If by reason of the formation of new wards or by a change in the boundaries of existing wards or the creation of more than 1 election district therein, or for any reason there shall not be a sufficient number of the officers last named in any ward or district to make a board of 4 inspectors for each election district it shall be the duty of the council, at least 1 week before the election, to appoint a sufficient number of inspectors, who, with the officers above named, if any, residing in the ward or election district shall constitute a board of 4 inspectors for the ward or district, and if at any election any of the inspectors above provided for shall not be present, or remain in attendance, the electors present may choose, viva voce, such number of electors, as with the inspector or inspectors present shall constitute a board of 4 in number, and such electors so chosen shall be inspectors at that election, during the continuance thereof. Each inspector of the election shall receive 2 dollars per day as compensation.

HISTORY: CL 1897, 3013;—CL 1915, 2929;—CL 1929, 1853;—CL 1948, 86.7.

86.8 Board of election inspectors; chairman, clerk, oath.

Sec. 8. The inspectors of election in each ward or voting district shall choose 1 of their number chairman of the board, and shall designate 1 of their number to act as clerk of the election, and another of their number to act as second clerk, and each person chosen or appointed as inspector of election shall take the constitutional oath of office, which oath either of the inspectors may administer.

HISTORY: CL 1897, 3014;—CL 1915, 2930;—CL 1929, 1854;—CL 1948, 86.8.

86.9 Board of election inspectors; state, county, district elections.

Sec. 9. The inspectors of election, as specified in the last 2 sections, shall also be inspectors of state, county, and district elections in their respective wards or voting districts.

HISTORY: CL 1897, 3015;—CL 1915, 2931;—CL 1929, 1855;—CL 1948, 86.9.

86.10 Elections; manner conducted.

Sec. 10. All elections held under the provisions of this act, shall be conducted, as nearly as may be, in the manner provided by law for holding general elections in the state, except as herein otherwise provided; and the inspectors of such elections shall have the same powers and authority for the preservation of order, and for enforcing obedience to their lawful commands during the time of holding the election and the canvass of the votes, as are conferred by law upon inspectors of general elections held in this state.

HISTORY: CL 1897, 3016;—CL 1915, 2932;—CL 1929, 1856;—CL 1948, 86.10.

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86.11 Election commissioners; appointment, duties.

Sec. 11. The council shall, at least 10 days previous to any election, appoint a board of 3 election commissioners, not more than 2 of whom shall belong to the same political party, who shall be the board of election commissioners for such city for such election, and they shall perform such duties relative to the preparation and printing of ballots as are required by law of the boards of election commissioners of counties.

HISTORY: CL 1897, 3017;—CL 1915, 2933;—CL 1929, 1857;—CL 1948, 86.11.

86.12 Vote by ballot.

Sec. 12. The electors shall vote by ballot. Such ballot shall be prepared and furnished by the board of election commissioners as provided by the general election laws of the state, and shall contain the names of all officers to be voted for, and all questions or propositions submitted to be voted upon, and all matters touching the form and contents of the ballot and the casting and canvassing of the same, and all other matters touching elections shall be governed by the general election laws of the state, when not inconsistent with the provisions of this act.

HISTORY: CL 1897, 3018;—CL 1915, 2934;—CL 1929, 1858;—CL 1948, 86.12.

86.13 Canvass of returns; certificate, filing.

Sec. 13. The council shall convene on Thursday next succeeding each election, at their usual place of meeting, and determine the result of the election upon each question and proposition voted upon, and what persons are duly elected at the said election to the several offices respectively; and, thereupon, the city clerk shall make duplicate certificates, under the corporate seal of the city, of such determination, showing the result of the election upon any question or proposition voted upon, and what persons are declared elected to the several offices respectively; 1 of which certificates he shall file in the office of the county clerk, in the county in which the city is located, and the other shall be filed in the office of the city clerk.

HISTORY: CL 1897, 3019;—CL 1915, 2935;—CL 1929, 1859;—CL 1948, 86.13.

ELECTION AND QUALIFICATION: See notes to Compilers' § 88.6.

86.14 Candidate elected; tie.

Sec. 14. The person receiving the greatest number of votes for any office in the city or wards, shall be deemed to have been duly elected to such office; and if there shall be no choice for any office by reason of 2 or more candidates having received an equal number of votes the council shall, at the meeting mentioned in the preceding section, determine by lot between such persons which shall be considered elected to such office.

HISTORY: CL 1897, 3020;—CL 1915, 2936;—CL 1929, 1860;—CL 1948, 86.14.

86.15 Notification of election.

Sec. 15. It shall be the duty of the city clerk within 5 days after the meeting and determination of the council, as provided in section 13, to notify each person elected, in writing, of his election; and he shall also, within 5 days after the appointment of any person to any office in like manner notify such person of such appointment.

HISTORY: CL 1897, 3021;—CL 1915, 2937;—CL 1929, 1861;—CL 1948, 86.15.

86.16 Oath of office or bond; failure to file; notice by clerk.

Sec. 16. Within 1 week after the expiration of the time in which any official bond or oath of office is required to be filed, the city clerk shall report, in writing, to the council, the names of the persons elected or appointed to any office, who shall have neglected to file such oath and requisite bond or security for the performance of the duties of the office.

HISTORY: CL 1897, 3022;—CL 1915, 2938;—CL 1929, 1862;—CL 1948, 86.16.

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CHAPTER VII—DUTIES AND COMPENSATION OF OFFICERS—MAYOR.

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87.1 Mayor; duties.

Sec. 1. The mayor shall be the chief executive officer of the city. He shall preside at the meetings of the council and shall from time to time give the council information concerning the affairs of the corporation, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the several departments of the city government, see that the laws relating to the city, and the ordinances and regulations of the council are enforced.

HISTORY: CL 1897, 3023;—CL 1915, 2939;—CL 1929, 1863;—CL 1948, 87.1.

87.2 Mayor; conservator of peace; limitation.

Sec. 2. The mayor shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder; and shall have authority to command the assistance of all able bodied citizens to aid in the enforcement of the ordinances of the council, and to suppress riot and disorderly conduct. Unless otherwise provided in the city charter the mayor is not a law enforcement officer within the meaning of section 18 of Act No. 8 of the Public Acts of the extra session of 1933, as amended, being section 436.18 of the Compiled Laws of 1948.

HISTORY: CL 1897, 3024;—CL 1915, 2940;—CL 1929, 1864;—CL 1948, 87.2;—Am. 1969, p. 463, Act 237, Imd. Eff. Aug. 11.

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87.3 Mayor; suspension of appointed officers, procedure; records, inspection.

Sec. 3. The mayor may suspend any officer appointed by him at any time for neglect of duty, misconduct or other sufficient cause: Provided, That a written complaint under oath shall be preferred against said officer and filed with the city clerk. Said complaint shall be reasonably certain as to time, place and the offense, or offenses, charge therein, and a copy thereof served personally on such person or left with a person of suitable age at the last known place of residence of such suspended person, within 3 days after such suspension. The said officer shall have the privilege of filing answer to said complaint within 5 days after service of copy of said complaint as above provided. The council shall hear such complaint and defense thereto, if any, at the next regular meeting thereof: Provided, Said regular meeting shall occur within a time not less than 10 and not more than 15 days after the date of the filing of said complaint, otherwise a special meeting shall be called for the purpose of such hearing, and within the time herein limited. Should no complaint be filed within the time herein provided, or be not sustained at the hearing thereof, said officer may resume the duties of his office as if such suspension had never been made.

He shall at all times have authority to examine and inspect the books, records and papers of any agent, employe or officer of the corporation, and shall perform generally all such duties as are or may be prescribed by the ordinances of the city.

HISTORY: CL 1897, 3025;—Am. 1899, p. 190, Act 136, Imd. Eff. June 21;—CL 1915, 2941;—CL 1929, 1865;—CL 1948, 87.3.

87.4 Mayor; vacancy in office, president pro tem.

Sec. 4. In the absence or disability of the mayor, or in case of any vacancy in his office, the president pro tempore of the council shall perform the duties of mayor during such absence, disability or vacancy.

HISTORY: CL 1897, 3026;—CL 1915, 2942;—CL 1929, 1866;—CL 1948, 87.4.

ALDERMEN.

87.5 Aldermen; powers, duties.

Sec. 5. The aldermen of the city shall be members of the council, and attend the meetings thereof, and act upon committees, when thereupon appointed by the mayor or council. They shall be conservators of the peace, and as such they shall aid in maintaining quiet and good order in the city, and in securing the faithful performance of duty by all officers of the city.

HISTORY: CL 1897, 3027;—CL 1915, 2943;—CL 1929, 1867;—CL 1948, 87.5.

CITY CLERK.

87.6 City clerk; powers, duties.

Sec. 6. The city clerk shall keep the corporate seal, and all the documents, official bonds, papers, files, and records of the city, not by this act or the ordinances of the city entrusted to some other officer; he shall be clerk of the council; shall attend its meetings, record all its proceedings, ordinances and resolutions, and shall countersign and register all licenses granted; he shall, when required, make and certify under the seal of the city, copies of the papers and records filed and kept in his office; and such copies shall be evidence in all places of the matters therein contained, to the same extent as the original would be; he shall possess and exercise the powers of a township clerk, so far as the same are required to be performed within the city; and he shall have authority to administer oaths and affirmations.

HISTORY: CL 1897, 3028;—CL 1915, 2944;—CL 1929, 1868;—CL 1948, 87.6.

PUBLIC UTILITIES: See Act 69 of 1929, being Compilers' § 460.501 et seq.

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87.7 City clerk; general accountant; tax reports.

Sec. 7. The clerk shall be the general accountant of the city; and all claims against the corporation shall be filed with him for adjustment, and after examination thereof, he shall report the same with all accompanying vouchers and counter claims of the city, and the true balance as found by him, to the council, for allowance, and when allowed shall draw his warrant upon the treasurer for the payment thereof, designating thereon the fund from which payment is to be made, and take proper receipts therefor, but no warrant shall be drawn upon any fund after the same has been exhausted. When any tax or money shall be levied, raised or apportioned, the clerk shall report the amount thereof to the city treasurer, stating the objects and funds for which it is levied, raised, or appropriated, and the amounts thereof to be credited to each fund.

HISTORY: CL 1897, 3029;—CL 1915, 2945;—CL 1929, 1869;—CL 1948, 87.7.

87.8 Supervision duties over moneys and property; accounts.

Sec. 8. The clerk shall exercise a general supervision over all officers charged in any manner with the receipt, collection and disbursement of the city revenues, and over all the property and assets of the city; he shall have charge of all books, vouchers and documents relating to the accounts, contracts, debts and revenues of the corporation; he shall countersign and register all bonds issued, and keep a list of all property and effects belonging to the city, and of all its debts and liabilities; he shall keep a complete set of books, exhibiting the financial condition of the corporation and all its departments, funds, resources and liabilities, with a proper classification thereof and showing the purpose for which each fund was raised; he shall also keep an account with the treasurer, in which he shall charge him with all moneys received for each of the several funds of the city, and credit him with all the warrants drawn thereon, keeping a separate account with each fund; when any fund has been exhausted, the clerk shall immediately advise the council thereof.

HISTORY: CL 1897, 3030;—CL 1915, 2946;—CL 1929, 1870;—CL 1948, 87.8.

87.9 Financial report to council.

Sec. 9. The clerk shall report to the council, whenever required, a detailed statement of the receipts, expenditures, and financial condition of the city, of the debts to be paid, and moneys required to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the council may require.

HISTORY: CL 1897, 3031;—CL 1915, 2947;—CL 1929, 1871;—CL 1948, 87.9.

87.10 Deputy; appointment, duties; responsibility of clerk.

Sec. 10. The clerk may, subject to the approval of the council, appoint a deputy, who shall possess all the powers and authority of the city clerk, and may exercise all the duties thereof, subject to the control of such clerk, and such deputy shall be paid for his services by the clerk, unless otherwise provided by the council. The clerk shall be responsible for all the acts and defaults of such deputy, and he may remove such deputy at his pleasure.

HISTORY: CL 1897, 3032;—CL 1915, 2948;—CL 1929, 1872;—CL 1948, 87.10.

CITY TREASURER.

87.11 City treasurer; powers; duties; depositary, bond; deputy.

Sec. 11. The treasurer, subject to the direction of the council, shall have the custody of all moneys, bonds, mortgages, notes, leases and evidences of value belonging to the city: Provided, That the council by a majority vote of all the aldermen elect may designate 1 or more depositaries in such city in which the city treasurer shall deposit all such moneys and other property named above in his possession by virtue of his office, to be drawn therefrom only in such manner as the council shall direct, and every such depositary shall furnish a bond, as the council may require and approve, for the safe-

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keeping and accounting of all such moneys and property thus coming into its possession. The council may at any time by a majority vote of all the aldermen elect change any depositary or depositaries. He shall receive all moneys belonging to and receivable by the corporation, and keep account of all receipts and expenditures thereof: Provided, That the treasurer shall not be liable for any neglect or default by such depositary or depositaries. The treasurer shall pay no money out of the treasury except in pursuance of and by authority of law and as directed by the council. He shall keep an account of and be charged with all taxes and moneys appropriated, raised or received for each fund of the corporation, and shall keep a separate account of each fund, and shall credit thereto all moneys raised, paid in or appropriated therefor, and shall pay every warrant out of the particular fund constituted or raised for the purpose for which the warrant was issued, and having the name of such fund endorsed thereon by the clerk. The treasurer may also, subject to the approval of the council, appoint a deputy, who shall possess all the powers and authority of the treasurer, subject to the control of the treasurer; and the treasurer and his bondsmen shall be liable for the acts and defaults of such deputy. Such deputy shall be paid for his services by the treasurer, unless otherwise provided by the council, and such deputy may be removed at the will of the treasurer. The city treasurer shall be the collector of state and county taxes within the city, and all other taxes and assessments levied within the city; he shall perform all such duties in relation to the collection of taxes as the council may prescribe, and as provided by this act.

HISTORY: CL 1897, 3033;—Am. 1901, p. 210, Act 156, Imd. Eff. May 22;—CL 1915, 2949;—CL 1929, 1873;—CL 1948, 87.11.

FALSE STATEMENTS: See Compilers' § 750.489.

87.12 Financial reports; time.

Sec. 12. The treasurer shall render to the clerk on the first Monday of every month, and oftener if required, a report of the amounts received and credited by him to each fund, and on what account received, and the amounts paid out by him from each fund during the preceding month, and the amount of money remaining in each fund on the day of his report, and the council may at any time when they shall deem it advisable cause such report to be verified by a personal examination of the books, warrants, vouchers and city moneys in the possession of the treasurer. He shall also exhibit to the council annually on the first Monday in March and as often and for such period as the council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of his last annual report, classifying them therein by the funds to which such receipts are credited and out of which such disbursements are made, and the balances remaining in each fund; which account shall be filed in the office of the clerk and shall be published in one or more of the newspapers of the city.

HISTORY: CL 1897, 3034;—CL 1915, 2950;—CL 1929, 1874;—CL 1948, 87.12.

87.13 Payment receipts and vouchers.

Sec. 13. The said treasurer shall take receipts and vouchers for all moneys paid from the treasury, showing the amount and fund from which payment was made, and he shall exhibit to the council such receipts or vouchers on the first Monday of March in each year, or as often as the council shall require, as provided in the next preceding section.

HISTORY: CL 1897, 3035;—CL 1915, 2951;—CL 1929, 1875;—CL 1948, 87.13.

87.14 Duties as treasurer of school district; accounts; bonds.

Sec. 14. The city treasurer shall be the treasurer of the school district designated in this act as the "public schools of the city," and shall have the custody of the funds belonging to and receivable by such district from all sources, for schools, library, and schoolhouse purposes. He shall receive from the county treasurer, for the use of such district, all school and library moneys coming to his hands to which the district shall

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be entitled; and for that purpose such school district shall be considered under the laws relating to the distribution of primary school and library moneys, the same as a township. Said city treasurer shall keep an account of all the school and library moneys of the district in such manner as the board of education may require, and account therefor to said board whenever they shall direct. He shall pay out no moneys of the district except upon such warrants or vouchers as the board of education shall prescribe. Before entering upon the duties of his office, either as city treasurer or as treasurer of the public schools, the said treasurer shall give bond to the public schools of the city in such sum and with such sureties as the board of education shall direct, for the due performance of the duties of his office as treasurer of such district, and shall renew such bond from time to time with further sureties as said board may require.

HISTORY: CL 1897, 3036;—CL 1915, 2952;—CL 1929, 1876;—CL 1948, 87.14.

87.15 Public moneys; prohibited handling; removal from office.

Sec. 15. The city treasurer shall keep all moneys in his hands belonging to the city and to the public schools, separate and distinct from his own moneys; and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt, or any of the school or library funds in his custody or keeping, for his own use or benefit or that of any other person; any violation of this section shall subject him to immediate removal from office by the council, and the council is hereby authorized to declare the office vacant and to appoint his successor for the remainder of his term.

HISTORY: CL 1897, 3037;—CL 1915, 2953;—CL 1929, 1877;—CL 1948, 87.15. See notes to Compilers' § 64.12.

CITY MARSHAL.

87.16 City marshal; chief of police and peace officer, duties.

Sec. 16. The marshal shall be the chief of the police of the city. As police officer, he shall be subject to the direction of the mayor. It shall be his duty to see that all the ordinances and regulations of the council, made for the preservation of quiet, good order, and for the safety and protection of the inhabitants of the city are promptly enforced.

As peace officer he shall be vested with all the powers conferred upon sheriffs for the preservation of quiet and good order. He shall serve and execute all process directed or delivered to him and such process may be served anywhere within the state.

HISTORY: CL 1897, 3038;—CL 1915, 2954;—CL 1929, 1878;—CL 1948, 87.16. See notes to Compilers' § 64.13.

CHIEF OF POLICE: Drowned bodies, powers and duties with respect to recovery, see Compilers' §§ 51.301 and 51.302.

87.17 City marshal; suppression of riots.

Sec. 17. He shall suppress all riots, disturbances, and breaches of the peace, and for that purpose may command the aid of the citizens in the performance of such duty. It shall be his duty to arrest all disorderly persons in the corporation. He shall arrest upon view, and with or without process, any person found in the act of committing any offense against the laws of the state or the ordinances of the city amounting to a breach of the peace, and forthwith take such person before the proper magistrate or court for examination or trial, and may also without process arrest and imprison persons found drunk in the streets.

HISTORY: CL 1897, 3039;—CL 1915, 2955;—CL 1929, 1879;—CL 1948, 87.17.

87.18 Monthly report to council; contents; moneys, disposition.

Sec. 18. The marshal shall report in writing and on oath to the council at their first meeting in each month, all arrests made by him, and the cause thereof, and all persons discharged from arrest during the month; also the number remaining in confinement for breaches of the ordinances of the city, and the amount of all fines and fees collected by him. All moneys collected or received by the marshal, except fees for his per-

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sonal services, unless otherwise directed by this act, shall be paid into the city treasury during the same month when received, and the treasurer's receipt therefor shall be filed with the clerk.

HISTORY: CL 1897, 3040;—CL 1915, 2956;—CL 1929, 1880;—CL 1948, 87.18.

87.19 Fees.

Sec. 19. The marshal may collect and receive the same fees for services performed by him as are allowed to constables for like services; but in no case shall such fees be charged to, or be paid by the city.

HISTORY: CL 1897, 3041;—CL 1915, 2957;—CL 1929, 1881;—CL 1948, 87.19.

CITY ATTORNEY.

87.20 City attorney; duties.

Sec. 20. The attorney, in addition to the other duties prescribed in this act, shall be the legal adviser of the council, and of all officers of the city, and shall act as the attorney and solicitor for the corporation in all legal proceedings in which the corporation is interested, and he shall prosecute all offenses against the ordinances of the city.

HISTORY: CL 1897, 3042;—CL 1915, 2958;—CL 1929, 1882;—CL 1948, 87.20.

CITY SURVEYOR.

87.21 City surveyor; powers, duties.

Sec. 21. The surveyor shall have and exercise within the city, the like powers and duties as are conferred by law upon county surveyors; and the like effect and validity shall be given to his official acts, surveys, and plats, as are given by law to the acts and surveys of county surveyors. He shall make all necessary plats, maps, surveys, diagrams and estimates, plans and specifications required by the council or officers of the city, relating to the public improvements, buildings, grounds and streets of the city, and all plats, maps, surveys and diagrams made by him as such surveyor shall be the property of the city, and shall be delivered by him to his successor in office.

HISTORY: CL 1897, 3043;—CL 1915, 2959;—CL 1929, 1883;—CL 1948, 87.21.

STREET COMMISSIONER.

87.22 Street commissioner; duties.

Sec. 22. It shall be the duty of the street commissioner to perform or cause to be performed, all such labor, repairs, and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds and parks within the city as the council shall direct to be done by or under his supervision; and to oversee and do whatever may be required of him in relation thereto by the council.

HISTORY: CL 1897, 3044;—CL 1915, 2960;—CL 1929, 1884;—CL 1948, 87.22.

87.23 Monthly report to council; contents; marshal as street commissioner.

Sec. 23. He shall make a report to the council, in writing and on oath, once in each month, giving an exact statement of all labor performed by him, or under his supervision, and the charges therefor, the amount of material used, and the expense thereof, and the street or place where such material was used, or labor performed; and further showing the items and purpose of all expenses incurred since his last preceding report, and no payment for labor or services performed, or for expenses incurred by him shall be made until reported on oath, as aforesaid: Provided, That nothing in this act shall prevent the council from bestowing the powers and duties of street commissioner upon the marshal when it shall be deemed advisable.

HISTORY: CL 1897, 3045;—CL 1915, 2961;—CL 1929, 1885;—CL 1948, 87.23.

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CONSTABLES.

87.24 Constables; powers, duties.

Sec. 24. The constables of the city shall have the like powers and authority in matters of civil and criminal nature, and in relation to the service of all manner of criminal process, as are conferred by law upon constables in townships, and shall receive the like fees for their services. They shall have power also to serve all process issued for breaches of ordinances of the city.

HISTORY: CL 1897, 3046;—CL 1915, 2962;—CL 1929, 1886;—CL 1948, 87.24.

CONSTABLES: See notes to Compilers' §§ 41.80 to 41.84.

87.25 Neglect of duties; penalty; bond.

Sec. 25. The constables of the city shall obey all lawful orders of the mayor, aldermen and any justice of the peace exercising jurisdiction in causes for breaches of the ordinances of the city, and shall discharge all duties required of them by any ordinance, resolution or regulation of the council, and for any neglect or refusal to perform any such duty required of him every constable shall be subject to a penalty of not less than 5 nor more than 50 dollars. Every constable, before entering upon the duties of his office, shall give such bonds for the performance of the duties of his office, as may be required and approved by the council, and file the same with the city clerk.

HISTORY: CL 1897, 3047;—CL 1915, 2963;—CL 1929, 1887;—CL 1948, 87.25.

SUPERVISORS.

87.26 Supervisors; powers, duties; representation upon county board.

Sec. 26. The supervisors of the several wards are authorized to perform the same duties in relation to the assessment of property and levying taxes for all purposes in their respective wards, as are imposed by law upon supervisors elected in townships; and they shall have the like powers and perform the like duties in all other respects as supervisors so elected, except as herein otherwise provided, so far as such powers and duties are required to be exercised and performed in their wards; they shall represent their several wards in the board of supervisors of the county in which the city is located, and shall have all rights, privileges and powers of the several members of such board of supervisors: Provided, That any city now having a greater representation upon the board of supervisors of any county than is provided by this act, shall continue to have such representation as it may have at the time of such reincorporation, and if the office of any officer now representing any such city upon the board of supervisors is abolished by this act, the council of such city may annually appoint some suitable person, being a resident elector of such city, to represent the city upon the board of supervisors in the place of such officer whose office has been abolished.

HISTORY: CL 1897, 3048;—CL 1915, 2964;—CL 1929, 1888;—CL 1948, 87.26.

87.27 Selection of jury lists.

Sec. 27. The supervisors of the several wards shall, except in counties having a jury commission, select and return lists of grand and petit jurors to the clerk of the county, in the same manner and within the same time as the like duty is required to be performed by township officers.

HISTORY: CL 1897, 3049;—CL 1915, 2965;—CL 1929, 1889;—CL 1948, 87.27.

JUSTICES OF THE PEACE.

87.28 Justices of the peace; jurisdiction; powers.

Sec. 28. Justices of the peace elected in any city under the provisions of this act, shall have, and exercise therein and within the county the same jurisdiction and powers in all civil and criminal matters, causes, suits and proceedings, and shall perform the same duties in all respects, so far as occasion may require as are or may be con-

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ferred upon or required of justices of the peace by the general laws of the state. They shall have authority to hear, try and determine all suits and prosecutions for the recovery or enforcing of fines, penalties, and forfeitures imposed by the ordinances of the city, and to punish offenders for violations of such ordinances, as in the ordinances prescribed and directed, subject only to the limitations prescribed in section 17 of chapter 10 of this act.

HISTORY: CL 1897, 3050;—CL 1915, 2966;—CL 1929, 1890;—CL 1948, 87.28.

NOTE: Sec. 17, Ch. X, above referred to, is Compilers' § 90.17.

JUSTICES IN CITIES: In general, see Compilers' § 730.1 et seq.; in home rule cities, see Compilers' § 117.28.

JURISDICTION: In criminal cases, see Compilers' § 774.1.

87.29 Proceedings; governing laws.

Sec. 29. The proceedings in all suits and actions before said justices, and in the exercise of the powers and duties conferred upon and required of them, shall, except as otherwise provided in this act, be, according to, and be governed by the general laws applicable to justice courts and to the proceedings before such courts.

HISTORY: CL 1897, 3051;—CL 1915, 2967;—CL 1929, 1891;—CL 1948, 87.29.

87.30 Docket; entries, public inspection.

Sec. 30. Every justice of the peace shall enter in the docket kept by him the title of all suits and prosecutions commenced or prosecuted before him for violations of the ordinances of the city and all the proceedings and the judgment rendered in every such cause and the items of all costs taxed or allowed therein; and also the amounts and date of payment of all fines, penalties and forfeitures, moneys and costs received by him on account of any such suit or proceeding. Such docket shall be submitted by the justice at all reasonable times to the examination of any person desiring to examine the same and shall be produced by the justice to the council whenever required.

HISTORY: CL 1897, 3052;—CL 1915, 2968;—CL 1929, 1892;—CL 1948, 87.30.

87.31 Accounting of fines and penalties; receipts.

Sec. 31. All fines, penalties and forfeitures collected or received by any justice of the peace for or on account of violations of the penal laws of the state shall be paid over by such justice to the county treasurer on or before the first day of the month next after the collection or receipt thereof, and all fines, penalties, forfeitures and moneys collected or received by such justice for or on account of violations of any ordinances of the city other than penal violations, shall be paid over by such justice to the city treasurer on or before the first day of the month next after the collection or receipt thereof; and the justice shall take the receipt of the county or city treasurer therefor and file the same with the city clerk.

HISTORY: CL 1897, 3053;—Am. 1915, p. 473, Act 268, Eff. Aug. 24;—CL 1915, 2969;—CL 1929, 1893;—CL 1948, 87.31.

87.32 Fines and penalties; report, contents; oath.

Sec. 32. Every such justice shall report, on oath to the treasurer at the time of making the payments provided for in the next preceding section, the name of every person against whom a prosecution has been commenced, or judgment rendered for any of the fines, penalties, or forfeitures mentioned in the preceding section, and the amount of all moneys received by him on account thereof, or on account of any such suit or prosecution.

HISTORY: CL 1897, 3054;—CL 1915, 2970;—CL 1929, 1894;—CL 1948, 87.32.

87.33 Fines; disposition; expenses of prosecution, payment.

Sec. 33. All fines recovered for the violations of the penal laws of the state, when collected and paid into the city treasury, shall be disposed of as provided by law. The

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expenses of prosecutions before justices of the peace of the city for violations of said criminal laws, and in punishing the offenders, shall be paid by the county in which the city is located.

HISTORY: CL 1897, 3055;—CL 1915, 2971;—CL 1929, 1895;—CL 1948, 87.33.
DISPOSITION OF FINES: See (code of criminal procedure) Compilers' §§ 774.26, 774.27.

87.34 Bond; approval, endorsement.

Sec. 34. Each justice of the peace, in addition to any other security required by law to be given for the performance of his official duties, shall, before entering upon the duties of his office, give a bond to the city, in a penalty of 1,000 dollars, with sufficient sureties to be approved by the mayor, which approval shall be endorsed upon the bond, conditioned for the faithful performance of the duties of justice of the peace within and for the city.

HISTORY: CL 1897, 3056;—CL 1915, 2972;—CL 1929, 1896;—CL 1948, 87.34.
OFFICIAL BONDS: See Compilers' § 45.319.

87.35 Misconduct in office; penalty.

Sec. 35. Any justice of the peace who shall be guilty of misconduct in office, or who shall willfully neglect or refuse to perform or discharge any of the duties of his office required by this act or any of the ordinances of the city, shall be deemed guilty of a misdemeanor, and punishable accordingly.

HISTORY: CL 1897, 3057;—CL 1915, 2973;—CL 1929, 1897;—CL 1948, 87.35.
MISDEMEANOR: Punishment, see Compilers' § 750.504.

87.36 Account for unclaimed property; disposition.

Sec. 36. Every justice of the peace of the city shall account on oath to the council, for all such moneys, goods, wares and property, seized or stolen property, as shall remain unclaimed in his office; and shall make such disposition thereof as shall be prescribed by law.

HISTORY: CL 1897, 3058;—CL 1915, 2974;—CL 1929, 1898;—CL 1948, 87.36.

87.37 Additional powers and liabilities of officers.

Sec. 37. In addition to the rights, powers, duties and liabilities of officers prescribed in this act, all officers, whether elected or appointed, shall have such other rights, powers, duties and liabilities, subject to and consistent with this act, as the council shall deem expedient, and prescribe by ordinance or resolution.

HISTORY: CL 1897, 3059;—CL 1915, 2975;—CL 1929, 1899;—CL 1948, 87.37.

COMPENSATION OF OFFICERS.

87.38 City officers; compensation fees.

Sec. 38. The mayor shall receive such annual salary as the council may determine and aldermen may each receive such salary as may be prescribed by the council. The city marshal, clerk, treasurer, city attorney, and engineer of the fire department shall each receive such annual salary as the council shall determine by ordinance. Justices of the peace, constables and officers serving process and making arrests, may, when engaged in causes and proceedings for violations of the ordinances of the city, charge and receive such fees as are allowed to those officers for like services by the general laws of the state. All other officers elected or appointed in the city, shall, except as herein otherwise provided, receive such compensation as the council shall determine.

HISTORY: CL 1897, 3060;—Am. 1915, p. 355, Act 209, Eff. Aug. 24;—CL 1915, 2976;—CL 1929, 1900;—CL 1948, 87.38;—Am. 1957, p. 356, Act 268, Eff. Sep. 27.

87.39 Salary of city officers unalterable during term; eligibility to vacated office.

Sec. 39. The salary or rate of compensation of any officer elected or appointed by authority of this act shall not be increased or diminished during his term of office; and no person who shall have resigned or vacated any office shall be eligible to the same

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office during the term for which he was elected or appointed when during the same time the salary or rate of compensation has been increased.

HISTORY: CL 1897, 3061;—CL 1915, 2977;—CL 1929, 1901;—CL 1948, 87.39.

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CHAPTER VIII—THE CITY COUNCIL.

88.1 City council; members.
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88.3 President pro tempore; powers, duties.
88.4 Clerks; duties.
88.5 Aldermen; required attendance; loss of vote, interest.
88.6 Election returns; qualification of membership; meetings, notice.
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88.8 Proceedings; rules, record; publication; voting procedure.
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88.18 Powers of council; investigation of charges, procedure.
88.19 Witnesses; summons, oath.
88.20 Claims against city; audit, allowance; rules; defense to suit.

88.1 City council; members.

Sec. 1. The legislative authority of cities incorporated under this act shall be vested in a council consisting of the mayor, two aldermen elected from each ward and the city clerk.

HISTORY: CL 1897, 3062;—CL 1915, 2978;—CL 1929, 1902;—CL 1948, 88.1.

88.2 Mayor to be president.

Sec. 2. The mayor shall be president of the council, and preside at the meetings thereof, but shall have no vote therein, except in case of a tie, when he shall have the casting vote.

HISTORY: CL 1897, 3063;—CL 1915, 2979;—CL 1929, 1903;—CL 1948, 88.2.

88.3 President pro tempore; powers, duties.

Sec. 3. On the first Monday in May in each year, the council shall appoint 1 of their number president pro tempore of the council, who, in the absence of the president, shall preside at the meetings thereof, and exercise the powers and duties of president. He shall have a vote upon all questions, but he shall have no casting vote in case of a tie. In the absence of the president and president pro tem, the council shall appoint 1 of their number to preside and for the time being he shall exercise the powers and duties of the president.

HISTORY: CL 1897, 3064;—CL 1915, 2980;—CL 1929, 1904;—CL 1948, 88.3.

88.4 Clerks; duties.

Sec. 4. The city clerk shall be clerk of the council, but shall have no vote therein. He shall keep a full record of all the proceedings of the council, and perform such other duties relating to his office as the council may direct. In the absence of the clerk or his deputy the council shall appoint 1 of their number to perform the duties of clerk for the time being.

HISTORY: CL 1897, 3065;—CL 1915, 2981;—CL 1929, 1905;—CL 1948, 88.4.

88.5 Aldermen; required attendance; loss of vote, interest.

Sec. 5. Each alderman shall be required to attend all sessions of the council, and serve upon committees when appointed thereon. No alderman shall vote on any question in which he shall have a direct personal interest, but on all other questions he shall vote unless excused therefrom by a vote of 2/3 of the aldermen elect.

HISTORY: CL 1897, 3066;—CL 1915, 2982;—CL 1929, 1906;—CL 1948, 88.5.

88.6 Election returns; qualification of membership; meetings, notice.

Sec. 6. The council shall be judge of the election returns and qualifications of its own members. It shall hold regular stated meetings for the transaction of business, at

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such times and places within the city as it shall prescribe, not less than 2 of which shall be held in each month. The mayor or any 3 members of the council may call special meetings thereof, notice of which, in writing, shall be given to each alderman, or be left at his place of residence at least 6 hours before the meeting.

HISTORY: CL 1897, 3067;—CL 1915, 2983;—CL 1929, 1907;—CL 1948, 88.6.

88.7 Meetings to be public; quorum; procedure; authorizing vote.

Sec. 7. All meetings and sessions of the council shall be public. A majority of the aldermen shall make a quorum for the transaction of business; a less number may adjourn from time to time and all pending business and business noticed or set down for hearing at such meeting shall be taken up and heard at such adjourned meeting without further notice, and the members present may compel the attendance of absent members in such manner as shall be prescribed by rules or ordinance. But no office shall be created or abolished, nor any tax or assessment be imposed, street, alley or public ground be vacated, real estate or any interest therein purchased, leased, sold or disposed of, or private property be taken for public use, unless by a concurring yea and nay vote of 2/3 of all the aldermen elect; nor shall any vote of the council be reconsidered or rescinded at a special meeting, unless there be present as many aldermen as were present when such vote was taken. No money shall be appropriated except by ordinance or resolution of the council; nor shall any resolution be passed or adopted except by the vote of a majority of all the aldermen elected to office, except as herein otherwise provided.

HISTORY: CL 1897, 3068;—CL 1915, 2984;—CL 1929, 1908;—CL 1948, 88.7.

88.8 Proceedings; rules, record; publication; voting procedure.

Sec. 8. The council shall prescribe the rules of its own proceedings, and keep a record or journal thereof.

All votes shall be taken by yeas and nays when required by 1 or more members and be so entered upon the journal as to show the names of those voting in the affirmative and those in the negative, and within 10 days after any meeting of the council, all the proceedings and votes taken thereat shall be published in 1 of the newspapers of the city.

HISTORY: CL 1897, 3069;—CL 1915, 2985;—CL 1929, 1909;—CL 1948, 88.8.

88.9 Meetings of council; attendance, enforcement; disorderly conduct.

Sec. 9. The council may compel the attendance of its members and other officers of the city, at its meetings in such manner, and may enforce such fines for non-attendance, as may by ordinance be prescribed; and may by ordinance prescribe punishment for any misbehavior, contemptuous or disorderly conduct by any member or any person present at any session of the council.

HISTORY: CL 1897, 3070;—CL 1915, 2986;—CL 1929, 1910;—CL 1948, 88.9.

88.10 City officers; attendance at meetings.

Sec. 10. The attorney, marshal, street commissioner, surveyor and engineer of the fire department, may take part in all proceedings and deliberations of the council on all subjects relating to their respective departments, subject to such rules as the council shall from time to time prescribe, but without the right to vote. Said officers may be required to attend the meetings of the council in the same manner as members.

HISTORY: CL 1897, 3071;—CL 1915, 2987;—CL 1929, 1911;—CL 1948, 88.10.

88.11 Powers of council; control of finances, property.

Sec. 11. The council shall have control of the finances, and of all property of the city corporation, except as may be otherwise provided by law.

HISTORY: CL 1897, 3072;—CL 1915, 2988;—CL 1929, 1912;—CL 1948, 88.11.

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88.12 Powers of council; ordinances, enactment.

Sec. 12. Whenever by this act or any other provisions of law, any power or authority is vested in, or duty imposed upon, the corporation or council, the council may enact such appropriate ordinances as may be necessary for the execution and exercise of such power and authority, and to regulate the performance of such duty.

HISTORY: CL 1897, 3073;—CL 1915, 2989;—CL 1929, 1913;—CL 1948, 88.12.

88.13 Powers of council; standing committees; appointment, duties.

Sec. 13. The council may provide for the appointment of standing committees of its members, who shall perform such duties, investigate, have charge of, and report upon such matters as may be properly referred to them.

Such committees shall be appointed by the mayor, subject to the approval of the council.

HISTORY: CL 1897, 3074;—CL 1915, 2990;—CL 1929, 1914;—CL 1948, 88.13.

88.14 Duties of council; city records; filing, public inspection; penalty for defacing records.

Sec. 14. The council shall cause all the records of the corporation, and of all proceedings of the council and all books, documents, reports, contracts, receipts, vouchers and papers relating to the finances and affairs of the city, or to the official acts of any officer of the corporation (unless required by this act to be kept elsewhere), to be deposited and kept in the office of the city clerk and to be so arranged, filed and kept, as to be convenient of access and inspection, and all such records, books and papers shall be subject to inspection by any inhabitant of the city or other person interested therein, at all seasonable times, except such parts thereof as, in the opinion of the council, it may be necessary for the furtherance of justice to withhold for the time being. Any person who shall secrete, injure, deface, alter or destroy any such books, records, documents or papers, or expose the same to loss or destruction, with intent to prevent the contents or true meaning or import of the same from being known, shall on conviction thereof be punished by imprisonment in the state prison not longer than 1 year, or by fine not exceeding 1,000 dollars, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1897, 3075;—CL 1915, 2991;—CL 1929, 1915;—CL 1948, 88.14.

88.15 Members; compensation.

Sec. 15. No member of the council shall receive any compensation for his services, either as alderman, committeeman or otherwise, except as herein provided.

HISTORY: CL 1897, 3076;—CL 1915, 2992;—CL 1929, 1916;—CL 1948, 88.15.

88.16 Repealed. 1968, p. 558, Act 317, Eff. Sep. 1.

Section provided that city council members not be interested in contracts; penalty; exception.

88.17 Members; removal from office; ordinance.

Sec. 17. Any person appointed to office by the council by authority of this act, may be removed therefrom by a vote of the majority of the aldermen elect; and the council may remove from office any alderman by a concurring vote of 2/3 of all the aldermen elect. In case of elective officers other than aldermen and justices of the peace, provisions shall be made, by ordinance, for preferring charges against such officers and trying the same; and no removal of an elective officer, other than an alderman, shall be made except by a 2/3 vote of all the aldermen elect and unless a charge in writing is preferred and an opportunity given to make a defense thereto.

HISTORY: CL 1897, 3078;—CL 1915, 2994;—CL 1929, 1918;—CL 1948, 88.17.

88.18 Powers of council; investigation of charges, procedure.

Sec. 18. To enable the council to investigate charges against any officer, or such other matters as they may deem proper to investigate, the mayor, or any justice of the

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peace of the city is empowered, at the request of the council, to issue subpoenas or process by warrant, to compel the attendance of persons and the production of books and papers, before the council or any committee thereof.

HISTORY: CL 1897, 3079;—CL 1915, 2995;—CL 1929, 1919;—CL 1948, 88.18.

88.19 Witnesses; summons, oath.

Sec. 19. Whenever the council, or any committee of the members thereof, are authorized to compel the attendance of witnesses for the investigation of matters which may come before them, the presiding officer of the council or chairman of such committee for the time being, shall have power to administer the necessary oaths.

HISTORY: CL 1897, 3080;—CL 1915, 2996;—CL 1929, 1920;—CL 1948, 88.19.

88.20 Claims against city; audit, allowance; rules; defense to suit.

Sec. 20. The council shall audit and allow all accounts chargeable against the city but no account or claim or contract shall be received for audit or allowance, unless it shall be accompanied with a certificate of an officer of the corporation, or an affidavit of the person rendering it, to the effect that he verily believes that the services therein charged have been actually performed or the property delivered for the city, that the sums charged therefor are reasonable and just, and that to the best of his knowledge and belief, no set-off exists, nor payment has been made on account thereof, except such as are endorsed or referred to in such account or claim, and every such account shall exhibit in detail all the items making up the amount claimed and the true date of each. It shall be a sufficient defense in any court, to any action or proceeding for the collection of any demand or claim against the city for personal injuries or otherwise, that it has never been presented, certified to or verified as aforesaid, to the council for allowance; or if such claim is founded on contract that the same was presented without the affidavit or certificate as aforesaid, and rejected for that reason; or that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it.

HISTORY: CL 1897, 3081;—CL 1915, 2997;—CL 1929, 1921;—CL 1948, 88.20.

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CHAPTER IX—ORDINANCES.

89.1 Style of ordinance; contents, passage, required vote.
89.2 Penalty limit prescribed.
89.3 Veto powers of officers; passage of resolution over veto.
89.4 Repealed ordinances; re-enactment.
89.5 Approved ordinances; recording.
89.6 Approved ordinances; publication; certificate; plumbing, electric, building codes, adoption; publication.
89.7 Judicial notice of ordinances; best evidence, order.

89.1 Style of ordinance; contents, passage, required vote.

Sec. 1. The style of all ordinances shall be, "The city of ..... ordains." All ordinances shall require, for their passage, the concurrence of a majority of all the aldermen elect, exclusive of the mayor or other officer or person legally exercising the duties of the office of mayor. The time when any ordinance shall take effect shall be prescribed therein. Such time, when the ordinance imposes a penalty, shall not be less than 20 days from the day of its passage.

HISTORY: CL 1897, 3082;—Am. 1905, p. 354, Act 246, Eff. Sept. 16;—CL 1915, 2998;—CL 1929, 1922;—CL 1948, 89.1.

89.2 Penalty limit prescribed.

Sec. 2. When, by the provisions of this act, the council of any city has authority to pass ordinances for any purpose they may prescribe fines, penalties and forfeitures not exceeding 500 dollars (unless a greater fine or penalty is herein authorized), or imprisonment not exceeding 6 months or both in the discretion of the court, together with the costs of prosecution for each violation of any of said ordinances; and may provide that the offender, on failing to pay any such fine, penalty or forfeiture, and the costs of prosecution, may be imprisoned for any term not exceeding 6 months unless payment thereof be sooner made; and may direct such imprisonment to be in the city prison, or in the county jail of the county within which the city is located, or in such other prison or place of confinement in the state as provided by law. Such fine, penalty, forfeiture and imprisonment, for the violation of any ordinance, shall be prescribed therein.

HISTORY: CL 1897, 3083;—CL 1915, 2999;—CL 1929, 1923;—CL 1948, 89.2.

PENALTIES: See note to Compilers' § 66.2.

89.3 Veto powers of officers; passage of resolution over veto.

Sec. 3. No ordinance or resolution passed by the council shall have any force or effect, if, on the day of its passage, or on the next day thereafter, the mayor, or other officer or person legally discharging the duties of mayor, shall lodge in the office of the clerk a notice, in writing, suspending the immediate operation of such ordinance or resolution.

If the mayor, or other officer or person legally exercising the office of mayor, shall, within 3 days after the passage of any such ordinance or resolution, lodge in the office of the city clerk his reasons in writing, why the same should not go into effect, the same shall not go into effect nor have any legal operation, unless it shall, at a subsequent meeting of the council, be passed by a 2/3 vote of all the aldermen elect, exclusive of the mayor or other officer or person legally exercising the duties of the office of mayor, and if so repassed shall go into effect according to the terms thereof. If such reasons shall not be lodged with the clerk as above provided, such ordinance or resolution shall have the same operation and effect as if no notice suspending the same had been lodged with the city clerk, and no ordinance or resolution of the council shall go into operation until after the expiration of 24 hours after its passage, unless the said mayor, or acting mayor, shall approve the same in writing.

HISTORY: CL 1897, 3084;—CL 1915, 3000;—CL 1929, 1924;—CL 1948, 89.3.

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89.4 Repealed ordinances; re-enactment.

Sec. 4. No repealed ordinance shall be revived unless the whole, or so much as is intended to be revived, shall be re-enacted. When any section or part of a section of an ordinance is amended, the whole section, as amended shall be re-enacted.

HISTORY: CL 1897, 3085;—CL 1915, 3001;—CL 1929, 1925;—CL 1948, 89.4.

89.5 Approved ordinances; recording.

Sec. 5. All ordinances when approved by the mayor or when regularly enacted shall be immediately recorded by the clerk of the council, in a book to be called "The Record of Ordinances," and it shall be the duty of the mayor and clerk to authenticate the same by their official signatures upon such record.

HISTORY: CL 1897, 3086;—CL 1915, 3002;—CL 1929, 1926;—CL 1948, 89.5.

89.6 Approved ordinances; publication; certificate; plumbing, electric, building codes, adoption; publication.

Sec. 6. Within 1 week after the passage of any ordinance the same shall be published in some newspaper printed and circulated within the city, and the clerk shall immediately after such publication enter upon the record of ordinances, in a blank space to be left for such purpose under the recorded ordinance, a certificate stating in what newspaper and of what date such publication was made, and sign the same officially, and such certificate shall be prima facie evidence that legal publication of such ordinance has been made: Provided, however, That each city shall have power to adopt any plumbing code, electrical code, or building code which has been promulgated by the state of Michigan, or by any department, board, or other agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such code or codes by reference thereto in an adopting ordinance and without publishing any such code in full: Provided, That said code is clearly identified in said ordinance and that the purpose of said code shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the city clerk, available for inspection by and distribution to the public at all times, and that the publication shall contain a notice to the effect that a complete copy of said code is available for public use and inspection at the office of the city clerk.

HISTORY: CL 1897, 3087;—CL 1915, 3003;—CL 1929, 1927;—CL 1948, 89.6;—Am. 1951, p. 30, Act 28, Eff. Sep. 28.

89.7 Judicial notice of ordinances; best evidence, order.

Sec. 7. In all courts having authority to hear, try or determine any matter or cause arising under the ordinances of any city, and in all proceedings in such city relating to or arising under the ordinances or any ordinance thereof, judicial notice shall be taken of the enactment, existence, provisions and continuing force of the ordinances of the city. And whenever it shall be necessary to prove any of the laws, regulations or ordinances of any city, or any resolution adopted by the council thereof, the same may be read in all courts of justice, and in all proceedings: First, From a record thereof kept by the city clerk; Second, From a copy thereof, or of such record thereof, certified by the city clerk under the seal of the city; Third, From any volume of ordinances purporting to have been written or printed by authority of the council.

HISTORY: CL 1897, 3088;—CL 1915, 3004;—CL 1929, 1928;—CL 1948, 89.7.

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CHAPTER X—ENFORCEMENT OF ORDINANCES.

90.1 Violations; prosecution, time limit.
90.4 Violations; warrant for arrest.
90.5 Violations; form of warrant; proceedings, law governing.
90.6 Conviction of accused; judgment; punishment; costs.
90.7 Judgment; execution; fine and imprisonment.
90.8 Imprisonment; city use of county jail.
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90.10 Actions, allegation of ordinance.
90.11 Trial by jury.
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90.15 Fines imposed for violations; disposition.
90.16 Circuit court; jurisdiction, proceedings.
90.17 Justice of the peace; jurisdiction.
90.18 Prosecutions by person other than officer; security filed for payment of costs.

90.1 Violations; prosecution, time limit.

Sec. 1. Prosecutions for violations of the ordinances of cities incorporated under this act, shall be commenced within 2 years after the commission of the offense and shall be brought within the city.

HISTORY: CL 1897, 3089;—CL 1915, 3005;—CL 1929, 1929;—CL 1948, 90.1.

Secs. 2-3.

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. These sections were superseded and re-enacted with some slight changes in phraseology by sections 3 and 4, of Ch. 35, of Act 314, of 1915, p. 266, Eff. Jan. 1, 1916, (Jud. Act), though such act did not expressly repeal these sections.

90.4 Violations; warrant for arrest.

Sec. 4. Prosecutions for violations of the ordinances of the city may also, in all cases, except against corporations, be commenced by warrant for the arrest of the offender.

HISTORY: CL 1897, 3092;—CL 1915, 3006;—CL 1929, 1930;—CL 1948, 90.4.

90.5 Violations; form of warrant; proceedings, law governing.

Sec. 5. Such warrant shall be in the name of the people of the state of Michigan and shall set forth the substance of the offense complained of, and be substantially of the form, and be issued upon complaint made, as provided by law in criminal cases cognizable by justices of the peace.

And the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings, and all proceedings upon the trial of the cause, and in procuring the attendance and testimony of witnesses and in the rendition of judgment, and in the execution thereof, shall, except as otherwise provided by this act, be governed by, and conform as nearly as may be, to the provisions of law regulating the proceedings in criminal cases cognizable by justices of the peace.

HISTORY: CL 1897, 3093;—CL 1915, 3007;—CL 1929, 1931;—CL 1948, 90.5.

JUSTICE COURT PROCEDURE: See code of criminal procedure, Ch. XIV, Act 175, 1927, being Compilers' § 774.1 et seq.

90.6 Conviction of accused; judgment; punishment; costs.

Sec. 6. If the accused shall be convicted, the court shall render judgment thereon, and inflict such punishment, either by fine or imprisonment, or both, not exceeding the limit prescribed in the ordinance violated, as the nature of the case may require, together with such costs of prosecution as the court shall order.

HISTORY: CL 1897, 3094;—CL 1915, 3008;—CL 1929, 1932;—CL 1948, 90.6.

90.7 Judgment; execution; fine and imprisonment.

Sec. 7. Every such judgment shall be executed by virtue of an execution or warrant, specifying the particulars of the judgment. If the judgment be for the payment of a fine only, with or without costs, execution of the form prescribed in section 3 of this chapter shall issue forthwith.

If judgment be for both fine and imprisonment, a warrant shall issue immediately for the commitment of the defendant until the expiration of the term mentioned in the sentence, and an execution shall issue at the same time against the goods and chattels

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of the defendant for the collection of the fine or forfeiture imposed; but in neither case above mentioned shall the imprisonment without payment, operate as a satisfaction of the fine and costs imposed. In cases where a fine and imprisonment in default of payment thereof, or where imprisonment alone is imposed, a warrant of commitment shall issue accordingly, in the former case, until the expiration of the sentence, unless the fine and costs be sooner paid, and in the latter, for the term named in the sentence.

HISTORY: CL 1897, 3095;—CL 1915, 3009;—CL 1929, 1933;—CL 1948, 90.7.

90.8 Imprisonment; city use of county jail.

Sec. 8. Every city shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and any person so liable to imprisonment may be sentenced to, and committed to imprisonment, in such county jail or in the city prison, or other place of confinement provided by the city, or authorized by law and the sheriff or other keeper of such jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged.

HISTORY: CL 1897, 3096;—CL 1915, 3010;—CL 1929, 1934;—CL 1948, 90.8.

90.9 Process; direction and execution.

Sec. 9. All process issued in any prosecution or proceeding for the violation of any ordinance of the city, shall be directed to the city marshal, or to any constable of the city or county, and may be executed in any part of the state, by said officers or any other officer authorized by law to serve process issued by justices of the peace.

HISTORY: CL 1897, 3097;—CL 1915, 3011;—CL 1929, 1935;—CL 1948, 90.9.

90.10 Actions, allegation of ordinance.

Sec. 10. It shall not be necessary in any suit, proceeding or prosecution, for the violation of any ordinance of the city, to state or set forth such ordinance or any provision thereof, in any complaint, warrant, process or pleading therein; but the same shall be deemed sufficiently set forth or stated, by reciting its title and the date of its passage or approval. It shall be a sufficient statement of the cause of action in any such complaint or warrant, to set forth substantially and with reasonable certainty as to time and place, the act or offense complained of, and to allege the same to be in violation of an ordinance of the city, referring thereto by its title and the date of its passage or approval, and every court or magistrate having authority to hear or determine the cause shall take judicial notice of the enactment, existence and provisions of the ordinances of the city, and the resolutions of the council, and of the authority of the city to enact the same.

HISTORY: CL 1897, 3098;—CL 1915, 3012;—CL 1929, 1936;—CL 1948, 90.10.

90.11 Trial by jury.

Sec. 11. In all prosecutions for violations of the ordinances of the city, either party may require a trial by jury. Such jury, except when other provision is made, shall consist of 6 persons; and in suits commenced by warrant, shall be selected and summoned as in criminal cases cognizable by justices of the peace, and in suits commenced by summons as in civil causes triable before such magistrates. No inhabitant of the city shall be incompetent to serve as a juror in any cause in which the city is a party, or interested, on account merely of such interest as he may have in common with all the inhabitants of the city in the result of the suit.

HISTORY: CL 1897, 3099;—CL 1915, 3013;—CL 1929, 1937;—CL 1948, 90.11.

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90.12 Appeal of conviction; certiorari.

Sec. 12. Any party convicted of a violation of any ordinance of the city, in a suit commenced by warrant, as aforesaid, may remove the judgment and proceedings into the circuit court for the county in which the city is located, by appeal or writ of certiorari; and the proceedings therefor and the bond or security to be given thereon, and the proceedings and disposition of the cause in the circuit court, shall be the same as on appeal and certiorari in criminal causes cognizable by justices of the peace; and in suits to which the city shall be a party, brought to recover any penalty or forfeiture for such violations, either party may appeal from the judgment, or remove the proceedings, by certiorari, into the circuit court and the like proceedings shall be had therefore and thereon, and the like bond or security shall be given, as in cases of appeal and certiorari in civil causes, tried before justices of the peace, except that the city shall not be required to give any bond or security therein. The circuit court to which the cause shall be appealed or removed by certiorari shall also take judicial notice of the ordinances of the city, and the resolutions of the council, and of the provisions thereof.

HISTORY: CL 1897, 3100;—CL 1915, 3014;—CL 1929, 1938;—CL 1948, 90.12.

PROCEEDINGS: Appeal, see Compilers' § 774.34; certiorari, see Compilers' § 774.35.

90.13 Fines imposed for violations and costs; payment.

Sec. 13. All fines imposed for violations of the ordinances of the city, if paid before the accused is committed, shall be received by the court or magistrate before whom the conviction was had. If any fine shall be collected upon execution, the officer or persons receiving the same shall immediately pay over the money collected, to such court or magistrate. If the accused be committed, payment of the fine and costs imposed shall be made to the sheriff or other keeper of the jail or prison, who shall, within 30 days thereafter, pay the same to said court or magistrate; and the court or magistrate receiving any such fine or penalty, or any part thereof, shall pay the same into the city treasury except such fines as by the constitution are appropriated for library purposes, on or before the first Monday of the month next after the receipt of the same, and take the treasurer's receipt for and file the same with the city clerk.

HISTORY: CL 1897, 3101;—CL 1915, 3015;—CL 1929, 1939;—CL 1948, 90.13.

90.14 Fines imposed for violations; neglect of receiver, penalty.

Sec. 14. If any person who shall have received any such fine or any part thereof shall neglect to pay over the same pursuant to the foregoing provision, it shall be the duty of the council to cause suit to be commenced immediately therefor, in the name of the city, and to prosecute the same to effect. Any person receiving any such fine who shall wilfully neglect or refuse to pay over the same as required by the foregoing provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly.

HISTORY: CL 1897, 3102;—CL 1915, 3016;—CL 1929, 1940;—CL 1948, 90.14.

90.15 Fines imposed for violations; disposition.

Sec. 15. Fines paid into the city treasury for violations of ordinances of the city, shall be disposed of as the council may direct. The expenses of the apprehension and punishment of persons violating the ordinances of the city, excepting such part as shall be paid by costs collected, shall be defrayed by the city.

HISTORY: CL 1897, 3103;—CL 1915, 3017;—CL 1929, 1941;—CL 1948, 90.15.

90.16 Circuit court; jurisdiction, proceedings.

Sec. 16. The circuit court of the county in which any city incorporated under this act is located, shall have jurisdiction to hear, try and determine all causes arising under the ordinances of the city for violations thereof, when the fine or forfeiture imposed shall exceed 100 dollars, or where the offender may be imprisoned for a term exceeding 3 months. The proceedings in the circuit court in all such cases, shall be the same as in prosecutions to recover penalties and forfeitures, and to punish violations of the

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criminal laws of the state; and the general laws of the state regulating prosecutions in criminal cases, and to recover penalties shall apply.

HISTORY: CL 1897, 3104;—CL 1915, 3018;—CL 1929, 1942;—CL 1948, 90.16.

CIRCUIT COURT: Trials, see code of criminal procedure, Ch. VIII, Act 175, 1927, being Compilers' § 768.1 et seq.

90.17 Justice of the peace; jurisdiction.

Sec. 17. The justice of the peace of the city shall have jurisdiction in all cases mentioned in the preceding section when the fine or forfeiture imposed shall not exceed 100 dollars, or when the offender may be imprisoned for a term not exceeding 3 months.

HISTORY: CL 1897, 3105;—CL 1915, 3019;—CL 1929, 1943;—CL 1948, 90.17.

90.18 Prosecutions by person other than officer; security filed for payment of costs.

Sec. 18. In all prosecutions for violations of the ordinances of the city, commenced by any person other than an officer of the city, the court may require the prosecutor to file security for the payment of the costs of the proceedings, in case the defendant is acquitted. But he shall not be liable for the payment of the costs if the magistrate before whom the complaint is made, or trial is had, shall certify in his minutes that there was probable cause for the making of such complaint.

HISTORY: CL 1897, 3106;—CL 1915, 3020;—CL 1929, 1944;—CL 1948, 90.18.

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CHAPTER XI—GENERAL POWERS OF CITY CORPORATIONS.

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91.1 General powers.

Sec. 1. Every city incorporated under the provisions of this act, shall, in addition to such other powers as are herein conferred, have the general powers and authority in this chapter mentioned; and the council may pass such ordinances in relation thereto, and for the exercise of the same, as they may deem proper, namely:

Crime prevention.

First. To restrain and prevent vice and immorality, gambling, noise and disturbance, indecent or disorderly conduct or assemblages and to punish for the same; to prevent and quell riots; to preserve peace and good order, and to protect the property of the corporation, and of its inhabitants, and of any association, public or private corporation or congregation therein, and to punish for injuries thereto, or for unlawful interference therewith;

Vagrants; disorderly persons.

Second, To apprehend and punish vagrants, truants, mendicants, street beggars, drunkards and persons found drunk in any of the public streets or places in the city, disorderly persons, and persons conducting themselves in a disorderly manner in any of the public streets or places in the city, and common prostitutes;

Nuisances.

Third, To prevent injury or annoyance from anything dangerous, offensive, or unhealthy; to prohibit and remove anything tending to cause or promote disease; to prevent and abate nuisances, and to punish those occasioning them, or neglecting or refusing to abate, discontinue, or remove the same;

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Disorderly houses.

Fourth, To prohibit and suppress all disorderly houses and places, houses of ill-fame, assignation houses, gambling houses, and all places where persons resort for gaming or to play at games of chance, and to punish the keepers thereof;

Billiards, bowling.

Fifth, To regulate, or license the use of billiard tables, nine or ten-pin alleys or tables and ball alleys;

Gaming.

Sixth, To prohibit and suppress every species of gaming and to authorize the seizure and destruction of all instruments and devices used for the purpose of gaming;

Liquors.

Seventh, To prohibit and prevent the selling or giving of any spirituous, fermented, or intoxicating liquors to any drunkard or intemperate person, minor, or apprentice and to punish any person so doing;

Sports; shows.

Eighth, To regulate, restrain or prohibit all sports, exhibitions of natural or artificial curiosities, caravans, circuses, menageries, theatrical exhibitions, shows and all exhibitions of whatever name or nature, for which money or other reward is in any manner demanded or received; lectures on historic, literary, or scientific subjects excepted;

Violation of Sabbath.

Ninth, To prevent and punish violations of the Sabbath day, and the disturbance of any religious meeting, congregation, or society, or other public meeting assembled for any lawful purpose; and to require all places of business to be closed on the Sabbath day;

Auctions.

Tenth, To license auctioneers, auctions and sales at auction; to regulate or prohibit the sale of live or domestic animals at auction in the streets or alleys, or upon any public grounds within the city; to regulate or prohibit the sale of goods, wares, property, or anything at auction, or by any manner of public biddings or offers by the buyers or sellers after the manner of auction sales, and to license the same, and to regulate the fees to be paid by and to auctioneers; but no license shall be required in case of sales required by law to be made at auction or public vendue;

Street vendors; pawnbrokers.

Eleventh, To license hawkers, peddlers, and pawnbrokers, and hawking and peddling and to regulate, license or prohibit the sale or peddling of goods, wares, merchandise, refreshments, or any kind of property or thing by persons going about from place to place in the city for that purpose, or from any stand, cart, vehicle, or other device in or upon the streets, highways, alleys, sidewalks, or in or upon the wharves, docks, or from boats, open places or spaces, public grounds or buildings in the city;

Harbor boats.

Twelfth, To license and regulate wharf boats, and to regulate the use of tugs and other boats used in and about the harbor and within the jurisdiction of the city;

Ferries.

Thirteenth, To establish or authorize, license and regulate ferries to and from the city, or any place therein, or from 1 part of the city to another and to regulate and prescribe from time to time the charges and prices for the transportation of persons and property thereon;

Restaurants; houses of public entertainment.

Fourteenth, To regulate and license all taverns and houses of public entertainment; all saloons, restaurants, and eating houses and to regulate and prescribe the location of

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saloons; but this shall not be construed as authorizing the licensing of the sale of intoxicating liquors,

Vehicles; transfers.

Fifteenth, To license and regulate all vehicles, of every kind used for the transportation of persons or property for hire, in the city, and regulate or fix their stands on the streets and public places, and at wharves, boat landings, railroad station grounds and other places;

Toll bridges.

Sixteenth, To regulate and license all toll bridges within the city, and to prescribe the rates and charges for passage over the same;

Food inspection.

Seventeenth, To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat and other provisions;

Merchandise, materials; inspection.

Eighteenth, To regulate the inspection, weighing and measuring of brick, lumber, firewood, coal, hay and any article of merchandise;

Weights; measures.

Nineteenth, To provide for the inspection and sealing of weights and measures and to enforce the keeping and use of proper weights and measures by venders;

Sewers; water equipment.

Twentieth, To regulate the construction, repair, and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters;

Indecent exposure.

Twenty-first, To prohibit and prevent, in the streets, or elsewhere in the city, indecent exposure of the person, the show, sale, or exhibition for sale, of indecent or obscene pictures, drawings, engravings, paintings and books or pamphlets, and all indecent obscene exhibitions and shows of every kind;

Bathing in city waters.

Twenty-second, To regulate or prohibit bathing in the rivers, ponds, streams and waters of the city;

Rivers, cleaning.

Twenty-third, To provide for clearing the rivers, ponds, canals and streams of the city, and the races connected therewith, of all driftwood and noxious matter; to prohibit and prevent the depositing therein of any filth or other matter tending to render the waters thereof impure, unwholesome and offensive;

Abatement of nuisances.

Twenty-fourth, To compel the owner or occupant of any grocery, tallow chandler shop, soap or candy factory, butcher shop or stall, slaughter house, stable, barn, privy, sewer, or other offensive, nauseous or unwholesome place or house, to cleanse, remove, or abate the same whenever the council shall deem it necessary for the health, comfort or convenience of the inhabitants of the city;

Explosives.

Twenty-fifth, To regulate the keeping, selling and using of dynamite, gunpowder, firecrackers and fireworks and other explosive or combustible materials and the exhibition of fireworks and the discharge of firearms, and to restrain the making or lighting of fires in the streets and other open spaces in the city;

Cellars, privies, barns, drains.

Twenty-sixth, To direct and regulate the construction of cellars, slips, barns, private drains, sinks and privies;

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Mock auctions.

Twenty-seventh, To prohibit, prevent, and suppress mock auctions and every kind of fraudulent game, device, or practice, and to punish all persons managing, using, practicing, or attempting to manage, use or practice the same and all persons aiding in the management or practice thereof;

Lotteries.

Twenty-eighth, To prohibit, prevent and suppress all lotteries for the drawing or disposing of money, or any other property whatsoever and to punish all persons maintaining, directing, or managing the same, or aiding in the maintenance, directing or managing the same;

Vehicles, solicitors, drivers.

Twenty-ninth, To license and regulate solicitors for passengers or for baggage to and from any hotel, tavern, public house, boat or railroad; and to provide the places where they may be admitted to solicit or receive patronage; also draymen, carmen, truckmen, porters, runners, drivers of cabs, hackney coaches, omnibuses, carriages, sleighs, express vehicles and vehicles of every other description used and employed for hire, and to fix and regulate the amounts and rates of their compensation;

Poor persons.

Thirtieth, To provide for the protection and care of paupers and to prohibit and prevent all persons from bringing to the city, from any other place, any pauper, or other person likely to become a charge upon the city, and to punish therefor;

Census.

Thirty-first, To provide for taking a census of the inhabitants of the city, whenever the council shall see fit, and to direct and regulate the same;

Dog licenses.

Thirty-second, To provide for the issuing of licenses to the owners and keepers of dogs and to compel the owners and keepers thereof to pay for and obtain such licenses; and to regulate and prevent the running at large of dogs, to require them to be muzzled and to authorize the killing of all dogs not licensed, or running at large in violation of any ordinance of the city;

Toy pistols.

Thirty-third, To prohibit and punish the use of toy pistols, sling shots and other dangerous toys or implements within the city;

Animals, hitching.

Thirty-fourth, To require any horses, mules, or other animals attached to any vehicle or standing in any of the streets, lanes, or alleys in the city to be securely fastened, hitched, watched, or held; and to regulate the placing and provide for the preservation of hitching posts;

Buildings, numbering.

Thirty-fifth, To provide for and regulate the numbering of buildings upon the streets and alleys and to compel the owners or occupants to affix numbers on the same; and to designate and change the names of public streets, alleys and parks;

Fountains; reservoirs.

Thirty-six, To provide for, establish, regulate and preserve public fountains and reservoirs within the city and such troughs and basins for watering animals as they may deem proper;

Street railways.

Thirty-seventh, To prevent or provide for the construction and operation of street railways and to regulate the same and to determine and designate the route and grade of any street railway to be laid or constructed in said city;

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Public library.

Thirty-eighth, To establish and maintain a public library and to provide a suitable building therefor and to aid in maintaining such other public libraries as may be established within the city by private beneficence as the council may deem to be for the public good;

Transient traders.

Thirty-ninth, The council may also license transient traders, which shall be held to include all persons who may engage in the business of selling goods or merchandise after the commencement of the fiscal year, and the license fee in such cases may be apportioned with relation to the part of the fiscal year which has expired, but such traders, if they continue in the same business, shall not be required to take out a second license after the commencement of the next fiscal year: Provided, Such goods or merchandise have been assessed for taxes for said fiscal year;

Ordinances.

Fortieth, The council shall further have authority to enact all ordinances, and to make all such regulations, consistent with the laws and constitution of the state as they may deem necessary for the safety, order and good government of the city, and the general welfare of the inhabitants thereof; but no exclusive rights, privileges or permits shall be granted by the council to any person or persons, or to any corporation, for any purpose whatever.

HISTORY: CL 1897, 3107;—CL 1915, 3021;—CL 1929, 1945;—CL 1948, 91.1.

POWERS AND AUTHORITY: See Compilers' § 123.1 et seq. and 141.1 et seq. Interstate bridge over navigable stream, see Compilers' § 254.91 et seq.

SUBDIVISION 5: For township power of regulation, see Compilers' § 41.501 et seq.

91.2 Licenses; conditions for granting; revocation; penalty.

Sec. 2. The council may prescribe the terms and conditions upon which licenses may be granted and may exact and require payment of such reasonable sum for any license as they may deem proper. The person receiving the license shall, before the issuing thereof, execute a bond to the corporation, when required by the council, in such sum as the council may prescribe, with 1 or more sufficient sureties, conditioned for a faithful observance of the charter of the corporation and the ordinances of the council and otherwise conditioned as the council may prescribe. Every license shall be revocable by the council at pleasure; and when any license shall be revoked for noncompliance with the terms and conditions upon which it was granted, or on account of any violation of any ordinance or regulation passed or authorized by the council, the person holding such license shall, in addition to all other penalties imposed, forfeit all payments made for such license.

HISTORY: CL 1897, 3108;—CL 1915, 3022;—CL 1929, 1946;—CL 1948, 91.2.

91.3 License; term; not transferable; penalty.

Sec. 3. No license shall be granted for any term beyond the first Monday in June next thereafter, nor shall any license be transferable, and the council may provide for punishment by fine or imprisonment, or both, of any person who, without license, shall exercise any occupation, or trade, or do anything for or in respect to which any license shall be required by any ordinance or regulation of the council.

HISTORY: CL 1897, 3109;—CL 1915, 3023;—CL 1929, 1947;—CL 1948, 91.3.

91.4 License receipts; disposition.

Sec. 4. All sums received for licenses granted for any purpose by the city or under its authority, shall be paid into the city treasury to the credit of the contingent fund.

HISTORY: CL 1897, 3110;—CL 1915, 3024;—CL 1929, 1948;—CL 1948, 91.4.

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91.5 Franchise rights in streets; council vote; private damage suits.

Sec. 5. The council of any city shall have authority to permit any railroad company or street railway company to lay its track, and operate its road with steam, electric or other power, in or across the streets, highways and public alleys of the city, as the council may deem expedient, upon such terms and conditions, and subject to such regulations, to be observed by the company, as the council may prescribe; and to prohibit the laying of such track, or the operating of any such road, except upon such terms and conditions. But such permission shall not affect the right or claim of any person for damages sustained by reason of the construction or location of any such railroad or street railway: Provided, That no franchise for the use or occupancy of any street for any purpose shall be granted to an individual, company or corporation, except by a 2/3 vote of all the aldermen elect, nor shall any such franchise be granted for a period exceeding 30 years.

HISTORY: CL 1897, 3111;—CL 1915, 3025;—CL 1929, 1949;—CL 1948, 91.5.

LEGALIZED FRANCHISES AND CONTRACTS: See Act 259, 1905, CL 1929, 2218, omitted from this compilation.

91.6 Railroad crossing grades; flagmen; speed of trains; penalty.

Sec. 6. The council shall have power to provide for and change the location and grade of street crossings of any railroad track; and to compel any railroad company or street railway company to raise or lower their railroad track, to conform to street grades which may be established by the city from time to time; and to construct street crossings in such manner, and with such protection to persons, crossing thereat, as the council may require and to keep them in repair; also, to require and compel railroad companies to keep flagmen or watchmen at all railroad crossings of streets and to give warning of the approach and passage of trains thereat and to light such crossings during the night; to regulate and prescribe the speed of all locomotives and railroad trains and street railway cars within the city; but such speed shall not be required to be less than 6 miles per hour; and to impose a fine of not less than 5 nor more than 50 dollars, upon the company, and upon any engineer or conductor, violating any ordinance regulating the speed of trains.

HISTORY: CL 1897, 3112;—CL 1915, 3026;—CL 1929, 1950;—CL 1948, 91.6.

CROSSING GRADES: See Compilers' § 253.1 et seq.

FLAGMEN: See Compilers' § 466.2.

91.7 Railroad companies; drainage repairs; failure, expense of company.

Sec. 7. The council shall have power to require and compel any railroad company, and any street railway company, to make, keep open and in repair, such ditches, drains, sewers and culverts, along and under, or across their railroad tracks, as may be necessary to drain their grounds and right of way properly, and in such manner as the council shall direct, so that the natural drainage of adjacent property shall not be impeded. If any such railroad company or street railway company shall neglect to perform any such requirement, according to the directions of the council, the council may cause the work to be done at the expense of such company, and the amount of such expense may be collected at the suit of the city against the company, in a civil action, before any court having jurisdiction of the cause.

HISTORY: CL 1897, 3113;—CL 1915, 3027;—CL 1929, 1951;—CL 1948, 91.7.

91.8 Partition fence; ordinances, by-laws, regulation.

Sec. 8. The council is authorized to enact all such ordinances and by-laws as it may deem proper relative to the building, rebuilding, maintaining and repairing of partition fences by the owners and occupants of adjoining lots, inclosures and parcels of land in said city; and relative to the assigning to the owners or occupants of such adjoining pieces of land the portion of such partition fences to be maintained by them respectively; and may provide for the recording of such assignments and divisions when made; and may provide for the recovery of damages from any owner or occu-

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shall fail to comply with the provisions and requirements of any ordinance relative to such partition fences. And the council may appoint fence-viewers, and prescribe their duties and mode of proceeding in all cases relative to partition fences in said city.

HISTORY: CL 1897, 3114;—CL 1915, 3028;—CL 1929, 1952;—CL 1948, 91.8.

FENCES: Other provisions relating to fences and fence-viewers, see Compilers' § 43.1 et seq.

91.9 Support of poor persons; director of the poor.

Sec. 9. The council of any city may make such provision as they shall deem expedient for the support and relief of poor persons residing in the city; and for that purpose may provide by ordinance for the election or appointment of a director of the poor for the city, and may prescribe his duties and vest him with such authority as may be proper for the exercise of his duties.

HISTORY: CL 1897, 3115;—CL 1915, 3029;—CL 1929, 1953;—CL 1948, 91.9.

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CHAPTER XII—POLICE.

92.1 Policemen; watchmen.
92.2 Policemen; rules, regulations; temporary appointments.
92.3 City marshal; duties.
92.4 Police force; powers, duties.
92.5 Police force; fees, compensation; monthly report.
92.6 Police force; suspension, removal.

92.1 Policemen; watchmen.

Sec. 1. The council of any city may provide, by ordinance, for a police force and for the appointment by the mayor of such number of policemen and nightwatchmen as they may think necessary for the good government of the city and for the protection of the persons and property of the inhabitants; and may authorize the mayor to appoint special policemen from time to time, when in his judgment the emergency or necessity may so require.

HISTORY: CL 1897, 3116;—Am. 1907, p. 454, Act 320, Eff. Sept. 28;—CL 1915, 3030;—CL 1929, 1954;—CL 1948, 92.1.

92.2 Policemen; rules, regulations; temporary appointments.

Sec. 2. The council may make and establish rules for the regulation and government of the police, prescribing and defining the powers and duties of policemen and nightwatchmen, and shall prescribe and enforce such police regulations as will most effectually preserve the peace and good order of the city, preserve the inhabitants from personal violence, and protect public and private property from destruction by fire and from unlawful depredation. The mayor is hereby authorized, whenever he shall deem it necessary for the preservation of peace and good order in the city, to appoint and place on duty such number of temporary policemen as in his judgment the emergencies of the case may require; but such appointments, unless made in accordance with some ordinance or resolution of the council shall not continue longer than 3 days.

HISTORY: CL 1897, 3117;—CL 1915, 3031;—CL 1929, 1955;—CL 1948, 92.2.

92.3 City marshal; duties.

Sec. 3. The city marshal, subject to the direction of the mayor, shall, as chief of police, have the superintendence and direction of the policemen and night-watchmen, subject to such regulations as may be prescribed by the council.

HISTORY: CL 1897, 3118;—CL 1915, 3032;—CL 1929, 1956;—CL 1948, 92.3.

CITY MARSHAL: See Compilers' § 87.16.

92.4 Police force; powers, duties.

Sec. 4. It shall be the duty of the police and night-watchmen and officers of the force under the direction of the mayor and chief of police, and in conformity with the ordinances of the city, and laws of the state, to suppress all riots, disturbances and breaches of the peace and to pursue and arrest any person fleeing from justice in any part of the state; to apprehend any and all persons in the act of committing any offense against the laws of the state, or the ordinances of the city, involving a breach of the peace, and to take the offender forthwith before the proper court or magistrate, to be dealt with for the offense; to make complaints to the proper officers and magistrates of any person known or believed by them to be guilty of the violation of the ordinances of the city, or the penal laws of the state; and at all times diligently and faithfully to enforce all such laws, ordinances and regulations for the preservation of good order and the public welfare as the council may ordain; and to serve all process directed or delivered to them for service, and for such purposes the chief of police, and every policeman and night-watchman, shall have all the powers of constables and may arrest upon view and without process, any person in the act of violating any ordinance of the city involving a breach of the peace, or of committing any crime against the laws of the state. The chief of police and any policeman may serve and execute all pro-

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cess in suits and proceedings for violations of the ordinances of the city, and also any other process which by law, a constable may serve.

HISTORY: CL 1897, 3119;—CL 1915, 3033;—CL 1929, 1957;—CL 1948, 92.4.

92.5 Police force; fees, compensation; monthly report.

Sec. 5. When employed in the service of process, policemen shall receive the same fees therefor as are allowed to constables for like services; when otherwise engaged in the performance of police duty, they shall receive such compensation therefor from the city as the council may prescribe. Every policeman shall report on oath to the council, at its first meeting in every month, the amount of all moneys and fees received by him for services as policeman since his last preceding report and the names of the persons from whom received, and the amount received from each.

HISTORY: CL 1897, 3120;—CL 1915, 3034;—CL 1929, 1958;—CL 1948, 92.5.

92.6 Police force; suspension, removal.

Sec. 6. The mayor may suspend any policeman or nightwatchman on the complaint in writing and under oath of any citizen or on his own motion for a period of not longer than 30 days for neglect of duty, misconduct, or other sufficient cause. At a public hearing before such mayor, as provided for in section 3 of chapter 7 of this act, if such mayor shall be satisfied of the guilt of such policeman or nightwatchman, then it shall be the duty of such mayor to remove such officer from office. After such removal the mayor shall report such action to the council at its next regular meeting and his reasons therefor.

HISTORY: CL 1897, 3121;—Am. 1899, p. 190, Act 136, Imd. Eff. June 21;—Am. 1907, p. 454, Act 320, Eff. Sept. 28;—CL 1915, 3035,—CL 1929, 1959;—CL 1948, 92.6.

NOTE: Sec. 3 of Ch. VII, above referred to, is Compilers' § 87.3.

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CHAPTER XIII—CITY PRISON.

93.1 Prison facilities. | 93.2 Prisoners; hard labor.

93.1 Prison facilities.

Sec. 1. The council of any city shall have power to provide and maintain a city prison, and such watch or station houses as may be necessary, and may provide for the confinement therein of all persons liable to imprisonment or detention under the ordinances of the city, and for the employment of those imprisoned therein.

HISTORY: CL 1897, 3122;—CL 1915, 3036;—CL 1929, 1960;—CL 1948, 93.1.

PENAL INSTITUTIONS: In general see Compilers' § 800.1 et seq.

COST OF PRISON: How defrayed, see Compilers' § 104.1.

93.2 Prisoners; hard labor.

Sec. 2. All persons sentenced to confinement in the city prison, and all persons imprisoned therein on execution or commitment for the non-payment of fines for violations of the ordinances of the city, may be kept at hard labor during the term of their imprisonment, either within or without the prison, under such regulations as the council may prescribe.

HISTORY: CL 1897, 3123;—CL 1915, 3037;—CL 1929, 1961;—CL 1948, 93.2.

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CHAPTER XIV—PUBLIC HEALTH.

94.1 Ordinances; preservation and protection of health.
94.2 Nuisances, abating.
94.3 Unwholesome conditions; remedy; dangerous building, removal.
94.4 Abatement of nuisances; recovery of expense.
94.5 Offensive trades; regulation.
94.6 Contagious disease hospitals; exposed persons, regulation.
94.7 Council to exercise health powers.
94.8 Council to establish health board; powers, duties; violation of orders, penalty.

94.1 Ordinances; preservation and protection of health.

Sec. 1. The council of any city may enact all such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants thereof, and to prevent the introduction of malignant, infectious or contagious diseases within the city, or within 1 mile thereof; and for the removal of persons having such diseases, or who, from exposure thereto or otherwise, may be suspected or believed to be liable to communicate the same, either beyond the city limits or to such hospital or place of treatment within the city as the council may prescribe, or the public safety may require.

HISTORY: CL 1897, 3124;—CL 1915, 3038;—CL 1929, 1962;—CL 1948, 94.1.

94.2 Nuisances, abating.

Sec. 2. The council shall have power to prevent and remove or abate all nuisances dangerous to life or health within the city; and may require any person, corporation or company, causing such nuisance, and the owner or occupant of any lot or premises upon or in which any such nuisance or cause of disease may be found, to remove or abate the same, upon such notice, and within such time, and in such manner as the council may by ordinance or resolution direct.

HISTORY: CL 1897, 3125;—CL 1915, 3039;—CL 1929, 1963;—CL 1948, 94.2.

94.3 Unwholesome conditions; remedy; dangerous building, removal.

Sec. 3. If any cellar, vault, lot, sewer, drain, place, or premises within the city shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce unwholesome or offensive exhalations, the council may cause the same to be drained, filled up, cleaned, amended or purified; or may require the owner or occupant, or person in charge of such lot, premises or place, to perform such duty and may require the owner or occupant of any building, fence or structure, which may be dangerous or liable to fall and injure persons or property, to pull down or remove the same; or the council may cause the same to be done by the proper officers of the city.

HISTORY: CL 1897, 3126;—CL 1915, 3040;—CL 1929, 1964;—CL 1948, 94.3.

94.4 Abatement of nuisances; recovery of expense.

Sec. 4. If any person, corporation or company shall neglect to remove or abate any nuisance, or to perform any requirement made by or in accordance with any ordinance or resolution of the council, or by the board of health of the city, for the protection of the health of the inhabitants, and if any expense shall be incurred by the city in removing or abating such nuisance, or in causing such duty or requirement to be performed, such expense may be recovered by the city in an action of debt or assumpsit against such person, corporation or company. And in all cases where the city shall incur any expenses for draining, filling, cleansing or purifying any lot, place or premises, or for removing any unsafe building or structure, or for removing or abating any nuisance found upon any such lot or premises, the council may, in addition to all other remedies provided for the recovery of such expense, charge the same, or such part thereof as they shall deem proper, upon the lot or premises upon or on account of

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which such expense was incurred, or from which such nuisance was removed or abated, and cause the same to be assessed upon such lot or premises and collected as a special assessment.

HISTORY: CL 1897, 3127;—CL 1915, 3041;—CL 1929, 1965;—CL 1948, 94.4.

94.5 Offensive trades; regulation.

Sec. 5. The council, when they shall deem it necessary, may from time to time assign, by ordinance, certain places within the city for the exercising of any trade or employment offensive to the inhabitants or dangerous to the public health; and may forbid the exercise thereof in places not so assigned and may change or revoke such assignments at pleasure; and whenever a business, carried on in any place so assigned, or in any other place in the city, shall become hurtful and dangerous to the health of the neighborhood, the council may prohibit the further exercise of such business or employment at such place.

HISTORY: CL 1897, 3128;—CL 1915, 3042;—CL 1929, 1966;—CL 1948, 94.5.

94.6 Contagious disease hospitals; exposed persons, regulation.

Sec. 6. The council may purchase the necessary lands, and erect thereon, or otherwise provide 1 or more hospitals, pest houses or quarantine buildings, either within or without the city limits, and provide for the appointment of the necessary officers, attendants or employes, for the care and management thereof, and for the care and treatment therein of such sick and diseased persons as to the council or board of health of the city shall seem proper; and by direction of the council or board of health, persons having any malignant, infectious or contagious disease, or who have been exposed to such disease, may be removed to such hospital, pest house or quarantine buildings, and there detained and treated, when the public safety may so require; and the council may provide such restraints and punishments as may be necessary to prevent any such person from departing from such hospital, pest house or quarantine grounds until duly discharged.

HISTORY: CL 1897, 3129;—CL 1915, 3043;—CL 1929, 1967;—CL 1948, 94.6.

COST OF HOSPITAL: How defrayed, see Compilers' § 104.1.

CONDEMNATION: For hospital, see Compilers' § 105.1.

94.7 Council to exercise health powers.

Sec. 7. The council of any city incorporated under this act shall also have and exercise within and for the city, all the powers and authority conferred upon boards of health by chapter 46, of the Compiled Laws of 1871, and all amendments thereto, being chapter 39 of Howell's annotated statutes of the state of Michigan, so far as the same are applicable and consistent with this act; and they may enact such ordinances as may be proper for regulating the proceedings and mode of exercising such powers and authority.

HISTORY: CL 1897, 3130;—CL 1915, 3044;—CL 1929, 1968;—CL 1948, 94.7.

NOTE: The chapter of CL 1871, above referred to, is Compilers' § 327.1 et seq.

COUNCIL AS BOARD OF HEALTH: For a similar provision, see Compilers' § 327.49.

94.8 Council to establish health board; powers, duties; violation of orders, penalty.

Sec. 8. The council, when deemed necessary, may establish a board of health for the city and appoint the necessary officers thereof and provide rules for its government, and invest it with such power and authority as may be necessary for the protection and preservation of the health of the city; and in addition thereto the board shall have and exercise all the powers and authority conferred on boards of health by the chapter

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of the compiled laws referred to in the preceding section, so far as they may be exercised consistently with the provisions of this act. And the council may prescribe penalties for the violation of any lawful order, rule or regulation made by the board of health, or any officer thereof.

HISTORY: CL 1897, 3131;—CL 1915, 3045;—CL 1929, 1969;—CL 1948, 94.8.

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CHAPTER XV—CEMETERIES.

95.1 City ownership of cemetery; regulation.
95.2 Appropriation, cemetery.
95.3 Board of cemetery trustees; appointment, term, removal.
95.4 Board of cemetery trustees; chairman, clerk; powers.
95.5 Board of cemetery trustees; property management powers, duties.
95.6 Board of cemetery trustees; necessary employees; ordinances, enforcement.
95.7 Board of cemetery trustees; cemetery fund, accounting; report to council, contents.
95.8 Cemetery; city owned; ordinances; enactment, enforcement.
95.9 Privately owned cemeteries; ordinances governing.

95.1 City ownership of cemetery; regulation.

Sec. 1. Any city may acquire, hold and own such cemetery or public burial place or places, either within or without the limits of the corporation, as in the opinion of the council shall be necessary for the public welfare, and suitable for the convenience of the inhabitants, and may prohibit the interment of the dead within the city, or may limit such interments therein to such cemetery or burial place as the council may prescribe; and the council may cause any bodies buried within the city in violation of any rule or ordinance made in respect to such burials to be taken up and buried elsewhere.

HISTORY: CL 1897, 3132;—CL 1915, 3046;—CL 1929, 1970;—CL 1948, 95.1.

CEMETERIES: See also Compilers' § 128.1 et seq.

95.2 Appropriation, cemetery.

Sec. 2. The council may, within the limitations of this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds and for the improvement, adornment, protection and care thereof.

HISTORY: CL 1897, 3133;—CL 1915, 3047;—CL 1929, 1971;—CL 1948, 95.2.

95.3 Board of cemetery trustees; appointment, term, removal.

Sec. 3. Whenever any city shall own, purchase or otherwise acquire any cemetery or cemetery grounds, the mayor, by and with the consent of the council, shall appoint 5 trustees who shall be freeholders and electors in the city, and who shall constitute a "board of cemetery trustees." The 5 trustees so appointed shall hold their offices for the term of 5 years, except that at the first appointment 1 shall be appointed for 1 year, 1 for 2 years, 1 for the term of 3 years, 1 for the term of 4 years and 1 for the term of 5 years from the first Monday in May of the year when appointed, and annually thereafter 1 trustee shall be appointed. The council may remove any trustee so appointed, for inattention to his duties, want of proper judgment, skill, or taste for the proper discharge of the duties required of him, or other good cause. Said board shall serve without compensation.

HISTORY: CL 1897, 3134;—CL 1915, 3048;—CL 1929, 1972;—CL 1948, 95.3.

95.4 Board of cemetery trustees; chairman, clerk; powers.

Sec. 4. The board of cemetery trustees shall appoint 1 of their number chairman, and the city clerk shall be the clerk of the board. And the council may by ordinance, invest the board with such powers and authority as may be necessary for the care, management and preservation of such cemetery and grounds, the tombs, and monuments therein, and the appurtenances thereof; and in addition to the duties herein mentioned, the board shall perform such other duties as the council may prescribe.

HISTORY: CL 1897, 3135;—CL 1915, 3049;—CL 1929, 1973;—CL 1948, 95.4.

95.5 Board of cemetery trustees; property management powers, duties.

Sec. 5. Said board, subject to the directions and ordinances of the council, shall have the care and management of any such cemetery or burial place or places and shall direct the improvements and embellishments of the grounds; cause such grounds to be laid out into lots, avenues and walks; the lots to be numbered and the avenues and

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walks to be named and plats thereof to be made and recorded in the office of the city clerk. Such board shall also have power in its discretion to take, receive and hold any property, real or personal, by devise or otherwise, which may be granted, transferred or devised to such board in trust for the purpose of caring for and keeping in good order and repair any given lot or lots, or portions thereof, specified in any such trust. The board shall fix the price of lots and make the sales thereof. The conveyances of such lots shall be executed on behalf of the city by the city clerk, and be recorded in his office at the expense of the purchasers.

HISTORY: CL 1897, 3136;—CL 1915, 3050;—CL 1929, 1974;—CL 1948, 95.5.

95.6 Board of cemetery trustees; necessary employees; ordinances, enforcement.

Sec. 6. Said board shall appoint the necessary superintendents and employes for the cemetery; expend the money provided for the care and improvement of the grounds; enforce the ordinances of the city made for the management and care thereof and make such regulations for the burial of the dead, the care and protection of the grounds, monuments and appurtenances of the cemetery, and the orderly conduct of persons visiting the grounds, as may be consistent with the ordinances of the city and the laws of the state.

HISTORY: CL 1897, 3137;—CL 1915, 3051;—CL 1929, 1975;—CL 1948, 95.6.

95.7 Board of cemetery trustees; cemetery fund, accounting; report to council, contents.

Sec. 7. All moneys raised for any public cemetery authorized by this act and all moneys received from the sale of lots therein, or otherwise therefrom, shall be paid into the city treasury, and constitute a fund to be denominated the "cemetery fund." Said fund shall not be devoted or applied to any other purpose, except the purposes of such cemetery. The board of trustees shall report to the council annually on the first Monday in March, and oftener when the council shall so require, the amount of all moneys received into and owing to the cemetery fund, and from what source, and from whom, and the date, amount, items and purpose of all expenditures and liabilities incurred, and to whom paid and to whom incurred and such other matters as the council shall require to be reported, which report shall be verified by the oath of the clerk of the board.

HISTORY: CL 1897, 3138;—CL 1915, 3052;—CL 1929, 1976;—CL 1948, 95.7.

95.8 Cemetery; city owned; ordinances; enactment, enforcement.

Sec. 8. The council of any city, owning a public burial ground or cemetery, whether within or without the city, may pass and enforce all ordinances necessary to carry into effect the provisions herein, and to control or regulate such cemetery or burial place, and the improvement thereof, and to protect the same and the appurtenances thereof from injury and to punish violations of any lawful orders and regulations made by the board of cemetery trustees.

HISTORY: CL 1897, 3139;—CL 1915, 3053;—CL 1929, 1977;—CL 1948, 95.8.

95.9 Privately owned cemeteries; ordinances governing.

Sec. 9. The council shall have power also to pass all ordinances deemed necessary for the preservation and protection of any cemetery or burial place within the city, belonging to or under the control of any church, religious society, corporation, company or association, and for the protection and preservation of the tombs, monuments and improvements thereof and the appurtenances thereto.

HISTORY: CL 1897, 3140;—CL 1915, 3054;—CL 1929, 1978;—CL 1948, 95.9.

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CHAPTER XVI—POUNDS.

96.1 City owned pounds; impounding regulations; poundmaster.
96.2 Fees for impounding; sale of animals; penalties.

96.1 City owned pounds; impounding regulations; poundmaster.

Sec. 1. The council may provide and maintain 1 or more pounds within the city and may appoint poundmasters, prescribe their powers and duties, and fix their compensation; and may authorize the impounding of all beasts and fowls found in the streets or otherwise at large contrary to any ordinance of the city; and if there shall be no pound or pound-master they may provide for the impounding of such beasts and fowls, by the city marshal, in some suitable place under his immediate care and inspection, and may confer on him the powers and duties of pound-master.

HISTORY: CL 1897, 3141;—CL 1915, 3055;—CL 1929, 1979;—CL 1948, 96.1.

POUNDS: See Compilers' § 433.52 et seq.

96.2 Fees for impounding; sale of animals; penalties.

Sec. 2. The council may also prescribe the fees for impounding and the amount or rate of expenses for keeping, and the charges to be paid by the owner or keeper of the beasts or fowls impounded; and may authorize the sale of such beasts and fowls for the payment of such fees, expenses and charges, and for penalties incurred and may impose penalties for rescuing any beast or thing impounded.

HISTORY: CL 1897, 3142;—CL 1915, 3056;—CL 1929, 1980;—CL 1948, 96.2.

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CHAPTER XVII—HARBORS, WHARVES AND HARBOR-MASTERS.

97.1 Authority of council; public wharves.
97.2 Authority of council; construction of wharves.
97.3 Authority of council; regulation of use of wharves, rates.
97.4 Authority of council; preservation of water purity; use of harbor, regulation.
97.5 Authority of council; regulation of use of tugs and bridges.
97.6 Authority of council; appointment of harbor officers; powers, duties.

97.1 Authority of council; public wharves.

Sec. 1. The council of any city located upon or adjacent to any of the navigable waters of the state, shall have the power to establish, construct, maintain and control public wharves, docks, piers, landing places and levees, basins and canals, upon any lands or property belonging to or under the control of the city; and for that purpose the city shall have the use or control of the shore or bank of any lake, river or other waters within the city, not the property of individuals, to the extent to which the state can grant the same, and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than 5 years and in such manner as to preserve the right of all persons to a free passage over the same with their baggage.

HISTORY: CL 1897, 3143;—CL 1915, 3057;—CL 1929, 1961;—CL 1948, 97.1.

97.2 Authority of council; construction of wharves.

Sec. 2. The council shall have authority also to require and cause all docks, wharves and landings, whether upon public grounds or upon the property of private individuals, to be constructed of such material and in such manner and maintained in conformity with such grade as may be established therefor by the council and prescribe the line beyond which any such wharf, dock, or landing shall not be constructed or maintained.

HISTORY: CL 1897, 3144;—CL 1915, 3058;—CL 1929, 1962;—CL 1948, 97.2.

97.3 Authority of council; regulation of use of wharves, rates.

Sec. 3. The council shall have authority to prohibit the encumbering of the public wharves and landings, and to regulate the use of all wharves, docks and landing places within the city; regulate the use and location of wharf boats; and to regulate and prescribe the rates and charges for landing, wharfage and dockage at all public and private wharves, docks and landings and to collect wharfage and dockage from boats, water craft, and floats landing at or using any public landing place, wharf, or dock within the city.

HISTORY: CL 1897, 3145;—CL 1915, 3059;—CL 1929, 1963;—CL 1948, 97.3.

97.4 Authority of council; preservation of water purity; use of harbor, regulation.

Sec. 4. The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the city and within 1/2 of a mile from the corporate boundaries thereof; to prohibit and punish the casting or depositing therein of any filth, logs, floating matter or any injurious thing; to control and regulate the anchorage, moorage and management of all boats, water-craft and float within the jurisdiction of the city; to prescribe the mode and speed of entering and leaving the harbor and of coming to and departing from the docks, wharves and landings, by boats, water-craft and floats, and to regulate and prescribe, by such ordinances or through a harbor-master or other officer, such location for any boat, craft, vessel or float and such changes of station in and use of the harbor as may be required to promote order therein and the safety and convenience of all such boats, craft, vessels and floats; and generally to enact and enforce such ordinances and regu-

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lations not inconsistent with the laws of the United States and of this state, as in the opinion of the council shall be most conducive to the orderly, safe and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers and landing places within the city.

HISTORY: CL 1897, 3146;—CL 1915, 3060;—CL 1929, 1964;—CL 1948, 97.4.

97.5 Authority of council; regulation of use of tugs and bridges.

Sec. 5. The council may also license and regulate the use of tugs and prescribe the rates and charges of towage within the harbor or other waters of the city, and regulate the opening and passage of bridges.

HISTORY: CL 1897, 3147;—CL 1915, 3061;—CL 1929, 1965;—CL 1948, 97.5.

97.6 Authority of council; appointment of harbor officers; powers, duties.

Sec. 6. The council may also appoint a harbor-master, wharf-master, port wardens, and such other officers as may be necessary for the enforcement of all such ordinances and regulations as the council may lawfully enact and prescribe, in respect to and over the navigable waters, harbors, wharves, docks, landings and basins, within the city and in respect to the navigation, trade and commerce of the city and prescribe the powers and duties of such harbor-master and other officers and to fix the compensation to be paid them.

HISTORY: CL 1897, 3148;—CL 1915, 3062;—CL 1929, 1966;—CL 1948, 97.6.

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CHAPTER XVIII—FERRIES.

98.1 Regulation and licensing of ferries by council; penalties.

98.1 Regulation and licensing of ferries by council; penalties.

Sec. 1. The council of any city may regulate and license ferries from such city or any place or landing therein to the opposite shore, or from 1 part of the city to another; and may require the payment of such reasonable sum for such license as to the council shall seem proper; and may impose such reasonable terms and restrictions in relation to the keeping and management of such ferries and the time, manner and rates of carriage and transportation of persons and property as may be proper, and provide for the revocation of any such licenses and for the punishment, by proper fines and penalties, of the violation of any ordinance prohibiting unlicensed ferries and regulating those established and licensed.

HISTORY: CL 1897, 3149;—CL 1915, 3063;—CL 1929, 1987;—CL 1948, 98.1.

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CHAPTER XIX—MARKETS.

99.1 Council; powers to establish and regulate markets.
99.2 Council; rules and regulations.

99.1 Council; powers to establish and regulate markets.

Sec. 1. The council of any city shall have the power to erect market houses, established [establish] and regulate markets and market places for the sale of meats, fish [sic] vegetables, and other provisions and articles necessary to the sustenance, convenience and comfort of the inhabitants; to prescribe the time for opening and closing the same; the kind and description of articles which may be sold; and the stands and places to be occupied by the venders.

HISTORY: CL 1897, 3150;—CL 1915, 3064;—CL 1929, 1988;—CL 1948, 99.1.

99.2 Council; rules and regulations.

Sec. 2. The council may adopt and enforce such rules and regulations as may be necessary to prevent fraud, and to preserve order in the markets; and may authorize the immediate seizure, arrest and removal from the market, of any person violating its regulations, together with any articles in his or their possession; and may authorize the seizure and destruction of tainted or unsound meats, or other unwholesome provisions exposed for sale therein.

HISTORY: CL 1897, 3151;—CL 1915, 3065;—CL 1929, 1989;—CL 1948, 99.2.

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CHAPTER XX—PUBLIC BUILDINGS, GROUNDS AND PARKS.

100.1 Council; power to acquire real estate.
100.2 Council; grounds for prisons; hospitals outside city limits.
100.3 Council; public parks.

100.1 Council; power to acquire real estate.

Sec. 1. Any city may acquire, purchase and erect all such public buildings as may be required for the use of the corporation and may purchase, acquire, appropriate and own such real estate as may be necessary for public grounds, parks, markets, public buildings and other purposes necessary or convenient for the public good and the execution of the powers conferred in this act; and such buildings and grounds, or any part thereof, may be sold, leased and disposed of as occasion may require.

HISTORY: CL 1897, 3152;—CL 1915, 3066;—CL 1929, 1990;—CL 1948, 100.1.

100.2 Council; grounds for prisons; hospitals outside city limits.

Sec. 2. When the council shall deem it for the public interest, grounds and buildings for city prisons, workhouses and other necessary public uses, may be purchased, erected and maintained beyond the corporate limits of the city; and in such cases the council shall have authority to enforce, beyond the city limits and over such lands, buildings and property in the same manner and to the same extent as if they were situated within the city, all such ordinances and police regulations as may be necessary for the care and protection thereof and for the management and control of the persons kept or confined in such prisons, workhouses or hospitals.

HISTORY: CL 1897, 3153;—CL 1915, 3067;—CL 1929, 1991;—CL 1948, 100.2.

100.3 Council; public parks.

Sec. 3. The council shall have authority to lay out, establish and enlarge, or vacate and discontinue public grounds and parks within the city and to improve, light and ornament the same and to regulate the care thereof and to protect the same and the appurtenances thereof from obstructions, encroachment and injury and from all nuisances.

HISTORY: CL 1897, 3154;—CL 1915, 3068;—CL 1929, 1992;—CL 1948, 100.3.

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CHAPTER XXI—SEWERS, DRAINS AND WATER-COURSES.

101.1 Construction of sewage systems; condemnation; location.
101.2 Board of public works; powers, duties.
101.3 Board of public works; drainage construction plan.
101.4 Board of public works; sewer districts; plats submitted to councils; adoption, filing.
101.5 Main sewer districts; subdivision; special sewer districts.
101.6 Main trunk sewers; adoption, recording.
101.7 Main trunk sewers; costs, expenses, payment; special assessment.
101.8 Diagram of sewer district; contents; publication of notice, examination.
101.9 Resolution of construction; contents; adopted plat, recording.
101.10 Construction; special assessments made.
101.11 Construction petition; sewer districts.
101.12 Drains privately owned; regulations; expense lien.
101.13 Drains privately owned; connection with public sewers.
101.14 Drains privately owned; annual charge, lien.
101.15 Improvement of ditches and water courses; special assessment.
101.16 Public sewers; repair; cost, payment.
101.17 Public sewers; ordinances for protection and control.
101.18 Main trunk sewers; money borrowed, vote by electors; bond issue.

101.1 Construction of sewage systems; condemnation; location.

Sec. 1. The council of any city may establish, construct and maintain sewers and drains whenever and wherever necessary and of such dimensions and materials and under such regulations as they may deem proper for the drainage of the city; and private property, or the use thereof, may be taken therefor in the manner prescribed in this act for taking such property for public use. But in all cases where the council shall deem it practicable such sewers and drains shall be constructed in the public streets and grounds.

HISTORY: CL 1897, 3155;—CL 1915, 3069;—CL 1929, 1993;—CL 1948, 101.1.

SANITATION: Supervision and regulation by department of health, see Compilers' § 325.201 et seq.

SEWERS: Construction in private property, see Compilers' § 123.181.

GARBAGE AND SEWAGE: Disposal of, see Compilers' § 123.241 et seq.

101.2 Board of public works; powers, duties.

Sec. 2. The board of public works shall have the management, supervision and control of the sewers, sewerage system and drainage of the city and the charge of their construction, subject to the general direction and approval of the council as herein provided, and the council may by ordinance prescribe the powers and duties of said board, relating to all matters connected with the sewers, sewerage system and drainage of the city.

HISTORY: CL 1897, 3156;—CL 1915, 3070;—CL 1929, 1994;—CL 1948, 101.2.

101.3 Board of public works; drainage construction plan.

Sec. 3. Whenever it may become necessary in the opinion of the council to provide sewerage and drainage for the city, or for any part thereof it shall be their duty to instruct and direct the board of public works to devise, or cause a plan of such sewerage or drainage to be devised, for the whole city, or for such part thereof as they shall determine.

HISTORY: CL 1897, 3157;—CL 1915, 3071;—CL 1929, 1995;—CL 1948, 101.3.

101.4 Board of public works; sewer districts; plats submitted to councils; adoption, filing.

Sec. 4. Such plan shall, in the discretion of the board, be formed with a view to the division of the city into main sewer districts, each to include 1 or more main or principle sewers, with the necessary branches and connections; the districts to be numbered and so arranged as to be as nearly independent of each other as may be. Plats or diagrams of such plan, when completed, shall be submitted to the council, and when adopted by the council shall be filed in the office of the clerk of the board.

HISTORY: CL 1897, 3158;—CL 1915, 3072;—CL 1929, 1996;—CL 1948, 101.4.

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101.5 Main sewer districts; subdivision; special sewer districts.

Sec. 5. Main sewer districts may be subdivided into special sewer districts in such manner that each special district shall include 1 or more lateral or branch sewers connecting with a main sewer and such lands as in the opinion of the board subject to the approval of the council will be benefited by the construction thereof. When deemed necessary, special sewer districts, to include 1 or more local or branch sewers, and such lands as in the opinion of the board, subject to the approval of the council, will be benefited by the construction thereof, may be formed of territory not included in any main sewer district.

HISTORY: CL 1897, 3159;—CL 1915, 3073;—CL 1929, 1997;—CL 1948, 101.5.

101.6 Main trunk sewers; adoption, recording.

Sec. 6. The council may, however, provide for main or trunk sewers without reference to sewer districts and may direct the board of public works to prepare diagrams, or plats thereof, which, when approved by the council, shall be recorded in the office of the clerk, in the book of sewer records.

HISTORY: CL 1897, 3160;—CL 1915, 3074;—CL 1929, 1998;—CL 1948, 101.6.

101.7 Main trunk sewers; costs, expenses, payment; special assessment.

Sec. 7. The cost and expenses of establishing and making any main or trunk sewers constructed without reference to sewer districts, shall be paid from the general sewer fund, excepting such portion or portions thereof as the council shall deem to be of benefit to adjacent private property, which property shall be described and the benefits thereto determined, assessed and taxed in the same manner as hereinafter provided. Such part as the council shall determine, being not less than 1/6 of the cost and expense of any main district sewer, or of the cost of any lateral, branch or local sewer constructed within a special sewer district, shall be paid from the general sewer fund, and the remainder of such costs and expenses shall be defrayed by special assessment upon all the taxable lands and premises included within the main or special sewer district, as the case may be, in proportion to the estimated benefits accruing to each parcel respectively from the construction of the sewer. Assessments according to benefits as aforesaid shall be made without reference to any improvements or buildings upon the lands.

HISTORY: CL 1897, 3161;—CL 1915, 3075;—CL 1929, 1999;—CL 1948, 101.7.

101.8 Diagram of sewer district; contents; publication of notice, examination.

Sec. 8. Before proceeding to the construction of any district sewer, the council shall cause the board of public works to prepare, or cause to be prepared, a diagram and plat of the whole sewer district, showing all the streets, public grounds, lands, lots and subdivisions thereof in the district and the proposed route and location of the sewer; and the depth, grade and dimensions thereof, and shall procure an estimate of the cost thereof and thereupon the council shall give notice, by publication for at least 2 weeks, in 1 or more of the newspapers of the city, of the intention to construct such sewer, and where said diagram and plat may be found for examination and of the time when the board and the council will meet and consider any suggestions and objections that may be made by parties interested with respect to such sewer.

HISTORY: CL 1897, 3162;—CL 1915, 3076;—CL 1929, 2000;—CL 1948, 101.8.

101.9 Resolution of construction; contents; adopted plat, recording.

Sec. 9. When the council shall determine to construct any such district sewer, they shall so declare by resolution, designating the district and describing by reference to the plat and diagram thereof, mentioned in the preceding section, the route and location, grade and dimensions of the sewer, and shall determine in the same resolution what part of the estimated expenses of the sewer shall be paid from the general sewer

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fund, and what part shall be defrayed by special assessment according to benefits; and they shall cause such plat and diagram as adopted to be recorded in the office of the city clerk, in the book of sewer records.

HISTORY: CL 1897, 3163;—CL 1915, 3077;—CL 1929, 2001;—CL 1948, 101.9.

101.10 Construction; special assessments made.

Sec. 10. Special assessments for the construction of sewers shall be made by the board of special assessors in the manner provided in this act for making special assessments.

HISTORY: CL 1897, 3164;—CL 1915, 3078;—CL 1929, 2002;—CL 1948, 101.10.

101.11 Construction petition; sewer districts.

Sec. 11. When the owner of a majority of the lands liable to taxation in any sewer district or part of the city which may be constituted a sewer district, shall petition for the construction of a sewer therein, the council shall construct a district sewer in such location, and if the lands included in the line of such proposed sewer are not within any sewer district, a district shall be formed for that purpose. In other cases sewers shall be constructed in the discretion of the council.

HISTORY: CL 1897, 3165;—CL 1915, 3079;—CL 1929, 2003;—CL 1948, 101.11.

101.12 Drains privately owned; regulations; expense lien.

Sec. 12. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon, in the manner hereinafter provided for the levying and collecting of special assessments.

HISTORY: CL 1897, 3166;—CL 1915, 3080;—CL 1929, 2004;—CL 1948, 101.12.

101.13 Drains privately owned; connection with public sewers.

Sec. 13. The owners or occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the board of public works shall prescribe.

HISTORY: CL 1897, 3167;—CL 1915, 3081;—CL 1929, 2005;—CL 1948, 101.13.

101.14 Drains privately owned; annual charge, lien.

Sec. 14. The board of public works may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding 2 dollars per year, as they may deem just, in proportion to the amount of drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessment thereon, or otherwise.

HISTORY: CL 1897, 3168;—CL 1915, 3082;—CL 1929, 2006;—CL 1948, 101.14.

101.15 Improvement of ditches and water courses; special assessment.

Sec. 15. Such part of the expenses of providing ditches and improving water-courses as the council shall determine, may be defrayed by a special assessment upon the lands and premises benefited thereby, in proportion to such benefits.

HISTORY: CL 1897, 3169;—CL 1915, 3083;—CL 1929, 2007;—CL 1948, 101.15.

101.16 Public sewers; repair; cost, payment.

Sec. 16. The expenses of repairing public sewers, ditches and water-courses may be paid from the general sewer fund. The expenses of reconstructing public sewers shall

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be defrayed in the manner herein prescribed for paying the expenses of the construction thereof.

HISTORY: CL 1897, 3170;—CL 1915, 3084;—CL 1929, 2008;—CL 1948, 101.16.

EXPENSES: Construction cost of sewers, see Compilers' § 101.7.

101.17 Public sewers; ordinances for protection and control.

Sec. 17. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to drainage of the city.

HISTORY: CL 1897, 3171;—CL 1915, 3085;—CL 1929, 2009;—CL 1948, 101.17.

101.18 Main trunk sewers; money borrowed, vote by electors; bond issue.

Sec. 18. If the council shall have determined to construct any main sewer in any main sewer district, or any main or trunk sewer, without reference to any sewer district, and if it shall be necessary for the city to borrow money for the payment of the amount determined by the council to be paid from the general sewer fund toward the construction of such sewer in such main sewer district, or for the payment of a trunk sewer to be constructed without reference to a sewer district, then before any further proceedings are had towards the construction of such sewer, the council shall cause to be made and recorded in their proceedings an estimate of the amount necessary to be borrowed for such purpose, and the question of borrowing such amount shall be submitted to the electors of the city at its next annual election or at a special election called for that purpose by the council as provided in this act. If a majority of such electors voting on the question vote for the borrowing of such amount of money, it shall be lawful for any such city to borrow such sum of money. The council shall have power to fix the time and place of the payment of the principal and interest of the debt, contracted under the provisions of this section, and to issue the bonds of the city therefor, but the rate of such interest shall not exceed 6% per annum, and such bonds shall not be sold for less than their par value.

HISTORY: CL 1897, 3172;—CL 1915, 3086;—CL 1929, 2010;—CL 1948, 101.18;—Am. 1969, p. 174, Act 89, Imd. Eff. Jul. 24.

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CHAPTER XXII—STREETS AND PUBLIC GROUNDS.

102.1 Thoroughfares and public grounds; control by council; damage suits, liability; required notice.
102.2 Thoroughfares; public improvements; condemnation; expenses, assessment.
102.3 Thoroughfares; resolution to vacate; hearing, notice.
102.4 Thoroughfares; survey; boundaries; recording of descriptions; ordinance to discontinue street, filing with auditor general.
102.5 Thoroughfares; street grading; diagrams, record.
102.6 Thoroughfares; expense of grading, payment.
102.7 Thoroughfares; grade changes, damage to property owner; compensation, assessment, procedure.

PAVING AND IMPROVEMENTS

102.8 Street districts; private connections, expense of owner on failure; assessment; suit.
102.9 Street districts; expenses of improvement, payment.
102.10 Improvement of public grounds; special assessment from general fund.

STREET REGULATIONS

102.11 Obstructions to highways; removal.
102.12 Shade trees; lighting system.
102.13 Removal of soil; street openings.
102.14 Use of highways and streets.

102.1 Thoroughfares and public grounds; control by council; damage suits, liability; required notice.

Sec. 1. The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the city, and shall cause the same to be kept in repair, and free from nuisance. No city subject to the provisions of this act shall be liable in damages sustained by any person in such city either to his person or property by reason of any defective street, sidewalk, cross-walk, or public highway, or by reason of any obstruction, ice, snow, or other encumbrance upon such street, sidewalk, cross-walk or public highway, situated in such city, unless such person shall serve or cause to be served, within 60 days after such injury shall have occurred, a notice in writing upon the clerk or the deputy clerk of such city, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold such city liable for such damages as may have been sustained by him. No city shall be responsible for the care, improvement, or repair of any street or alley laid out or dedicated to public use by the proprietors of any lands which had not been actually accepted, worked and used by the public as a street or alley before the incorporation of the city under this act, nor for the improvement and repair of any street or alley laid out or dedicated by any such proprietor after such incorporation, unless the dedication shall have been accepted and confirmed by the council by an ordinance or resolution specially passed for that purpose.

HISTORY: CL 1897, 3173;—CL 1915, 3067;—CL 1929, 2011;—CL 1948, 102.1.

102.2 Thoroughfares; public improvements; condemnation; expenses, assessment.

Sec. 2. The council shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate, or abolish any highway, street or alley in the city, whenever they shall deem the same a public improvement; and if in so doing it shall be necessary to take or use private property, the same may be taken in the manner in this act provided for taking private property for public use. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefited by such improvement, in the manner in this act provided for levying and collecting special assessments; or in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general street fund.

HISTORY: CL 1897, 3174;—CL 1915, 3068;—CL 1929, 2012;—CL 1948, 102.2.

CONDEMNATION: See Compilers' § 105.1 et seq.

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102.3 Thoroughfares; resolution to vacate; hearing, notice.

Sec. 3. When the council shall deem it advisable to vacate, discontinue or abolish any street, alley or public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time, not less than 4 weeks thereafter, when they will meet and hear objections thereto; notice of such meeting with a copy of said resolution shall be published for not less than 4 weeks before the time appointed for such meeting, in 1 of the newspapers of the city.

Objections to such proposed action of the council may be filed with the city clerk in writing, and if any such shall be filed, the street, alley or public ground, or any part thereof, shall not be vacated or discontinued, except by a concurring vote of 2/3 of the aldermen elect.

HISTORY: CL 1897, 3175;—CL 1915, 3089;—CL 1929, 2013;—CL 1948, 102.3.

VACATION OF STREETS: See notes to Compilers' § 67.12.

102.4 Thoroughfares; survey; boundaries; recording of descriptions; ordinance to discontinue street, filing with auditor general.

Sec. 4. The council may cause all public streets, alleys, and public grounds to be surveyed, and may determine and establish the boundaries thereof, and cause the surveys and descriptions thereof to be recorded in the office of the city clerk, in a book or street records; and they shall cause surveys and descriptions of all streets, alleys and public grounds opened, laid out, altered, extended or accepted and confirmed by the council, to be recorded in like manner; and such record shall be prima facie evidence of the existence of such streets, alleys or public grounds as in the records described. Every resolution or ordinance discontinuing or vacating any street, alley or public ground, shall also be recorded in said book of street records, and the record shall be prima facie evidence of all the matters therein set forth, and a true copy of every resolution or ordinance, containing an accurate description of the lands comprising any street, alley or public ground, laid out, altered, extended, discontinued or vacated thereby, shall be recorded in the office of the register of deeds for the county wherein said lands are situated, and shall thereafter be filed in the office of the auditor general.

HISTORY: CL 1897, 3176;—CL 1915, 3090;—CL 1929, 2014;—Am. 1935, p. 211, Act 133, Imd. Eff. June 4;—CL 1948, 102.4.

102.5 Thoroughfares; street grading; diagrams, record.

Sec. 5. The council shall have authority to determine and establish the grades of all streets, avenues, alleys and public grounds within the city, and to require improvements and buildings adjacent to or abutting upon such streets, alleys or grounds, to be made and constructed in conformity with such grade and upon such line as shall be prescribed by the council; and the council may change or alter the grade of any street, alley or public ground, or of any part thereof, whenever in their opinion the public convenience will be promoted thereby. Whenever a grade shall be established or altered, a record and diagram thereof shall be made in the book of street records in the office of the city clerk.

HISTORY: CL 1897, 3177;—CL 1915, 3091;—CL 1929, 2015;—CL 1948, 102.5.

102.6 Thoroughfares; expense of grading, payment.

Sec. 6. Whenever any street, alley or public highway shall have been graded, or pavement shall have been constructed in conformity to grades established by authority of the city, and the expense thereof shall have been assessed upon lots or lands bounded by or abutting upon such street, alley or public highway, the owner or owners of such lots or lands shall not be subject to any special assessment occasioned by

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any subsequent change of grade in such pavement, street, alley or public highway, unless such change be asked for by a majority of the owners of such lots or lands; but the expense of all improvements occasioned by such change of grade shall be chargeable to, and paid by the city.

HISTORY: CL 1897, 3178;—CL 1915, 3092;—CL 1929, 2016;—CL 1948, 102.6.

102.7 Thoroughfares; grade changes, damage to property owner; compensation, assessment, procedure.

Sec. 7. Whenever the grade of any street or sidewalk shall have been heretofore, or shall hereafter be established, and improvements shall thereafter be made by the owner or occupant of the adjacent property in conformity to such grade, such grade shall not be changed without compensation to the owner for all damages to such property resulting therefrom, to be ascertained by a jury as provided in chapter 25 of this act, or said damages may be ascertained and agreed upon by and between such city and the owner or occupant of such premises. Whenever such damage shall be ascertained or agreed upon as heretofore provided, such damages, or such part thereof as the council shall deem equitable and just, shall be paid by the city, or the council may cause such damages, or such part thereof as may be just and proper, to be assessed upon such real estate as may be benefited by reason of the change of such grade, and whenever the council shall determine to assess such damages, or any part thereof, upon the property benefited, it shall determine and define a district in said city which in its judgment is benefited by the improvement out of which said damages arise, and shall cause the same to be assessed upon such district, which said assessment shall be upon the owners or occupants of the taxable real estate in said district, in proportion as nearly as may be to the advantage or benefit each lot, parcel, or subdivision is deemed to acquire by the improvement out of which such damages arise, but the property on account of which such damages were awarded shall not be included in said district. The assessment shall be made, and the amount levied and collected in the same manner as other assessments on a district deemed to be benefited in the grading and improvement of streets, as provided for in this act; and all of the provisions of chapter 24 of this act, relative to special assessments and the collection thereof, shall apply thereto. Such damages when collected as aforesaid, and when determined upon by said city, shall be paid to the person entitled thereto.

HISTORY: CL 1897, 3179;—CL 1915, 3093;—CL 1929, 2017;—CL 1948, 102.7.

NOTE: Ch. 24, above referred to, is Compilers' § 104.1 et seq.

Ch. 25, above referred to, is Compilers' § 105.1 et seq.

PAVING AND IMPROVEMENTS.

102.8 Street districts; private connections, expense of owner on failure; assessment; suit.

Sec. 8. The council shall have power to grade, pave, plank, gravel, curb and otherwise improve and repair the highways, streets, avenues, lanes and alleys of the city; and for that purpose, and for defraying the expenses thereof, may divide the city into street districts. The term "paving" shall be deemed to include the construction of cross-walks, gutters and curbing. Whenever any paving has been ordered upon any street or public highway in the city, it shall be the duty of any person owning any lot or lots, lands or premises adjoining to, or abutting upon such street, before the same shall be paved, to put in and lay all such sewer, water and gas connections in front of their lands and premises, and carry the same from the pipe in such street to and beyond the curb line of such proposed pavement as the council shall determine to be necessary for the preservation of such proposed paving, when the same shall be laid and put down, and such connection shall be laid, made and put in in the manner and at the time or times as shall be directed by the council. In case the owner of such lot or lots,

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lands or premises shall neglect or refuse to make, lay or put in such connections at the time or in the manner prescribed by the council, then the council shall cause the same to be made, laid or put in, and the respective owners of such lots, lands or premises shall be liable for the cost thereof, together with 10 per cent in addition thereto as a penalty to be recovered by the city in an action of debt or assumpsit, or the costs together with the amount of such penalty for which such persons shall be respectively liable, the council shall cause to be reported to the board of special assessors, to be levied and assessed by them as a special tax or assessment upon such lot or lots, lands or premises, in the same manner as provided in section 4, chapter 23 of this act, in cases of special assessment for rebuilding and keeping in repair sidewalks in such city.

HISTORY: CL 1897, 3180;—CL 1915, 3094;—CL 1929, 2018;—CL 1948, 102.8.

NOTE: Sec. 4, Ch. 23, above referred to, is Compilers' § 103.4.

102.9 Street districts; expenses of improvement, payment.

Sec. 9. Such part of the expenses of improving any street, lane or alley, by grading, paving, planking, graveling, curbing, or otherwise, and of repairing the same as the council shall determine, may be paid from the general street fund or from the street district fund of the proper street district, or in part from each; or the whole, or such part of the expense of such improvement as the council shall determine, may be defrayed by special assessments upon lots and premises included in a special assessment district, to be constituted of the lands fronting upon that part of the street or alley so improved or proposed so to be; or constituted of lands fronting upon such improvement, and such other lands as in the opinion of the council may be benefited by the improvement.

HISTORY: CL 1897, 3181;—CL 1915, 3095;—CL 1929, 2019;—CL 1948, 102.9.

102.10 Improvement of public grounds; special assessment from general fund.

Sec. 10. When expenses for any such improvement or repairs shall be assessed in a special assessment district, and there shall be lands belonging to the city, school buildings, or other public buildings, or public grounds not taxable, fronting upon such improvement, such part of the expense of such improvement as in the opinion of the council or board of assessors making a special assessment would be justly apportionable to such public grounds, buildings and city property, and to any interior squares or spaces formed by the intersection of streets, were they taxable, shall be paid from the general street fund, or from the proper street district fund, or partly from each, as the council shall determine to be just, and the balance of such expenses shall be assessed upon the taxable lots and premises included in the special assessment district, in proportion to their number of feet frontage upon such improvement; or if the special assessment district shall include other lands not fronting upon the improvement, then upon all the lands included in such special assessment district, in proportion to the estimated benefits resulting thereto from the improvement. When such assessment is to be made upon lots in proportion to their frontage upon the improvement, if from the shape or size of any lot an assessment thereon in proportion to its frontage would be unjust and disproportionate to the assessments upon other lots, the council or board of assessors making the assessment may assess such lot for such number of feet frontage as in their opinion will be just.

HISTORY: CL 1897, 3182;—CL 1915, 3096;—CL 1929, 2020;—CL 1948, 102.10.

STREET REGULATIONS.

102.11 Obstructions to highways; removal.

Sec. 11. The council shall have the power to prohibit and prevent obstructions and encumbrances in, and encroachments upon the public highways, streets and alleys of the city, and to remove the same, and to punish those who shall obstruct, encumber,

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encroach or maintain any encroachments upon or in any such highway, street or alley; and to require all such persons to remove every such obstruction, encumbrance and encroachment.

HISTORY: CL 1897, 3183;—CL 1915, 3097;—CL 1929, 2021;—CL 1948, 102.11.

102.12 Shade trees; lighting system.

Sec. 12. The council may provide for and regulate the planting of shade and ornamental trees in the public highways, streets and avenues of the city, and for the protection thereof; and may light the streets and public places, and regulate the setting of lamps and lamp posts therein, and protect the same.

HISTORY: CL 1897, 3184;—CL 1915, 3098;—CL 1929, 2022;—CL 1948, 102.12.

102.13 Removal of soil; street openings.

Sec. 13. The council may regulate the making of all openings in, and removals of, the soil of public streets, and for the laying or repair of sewers, drains, tunnels, gas pipes, water pipes, or for any other purpose; and may prohibit and prevent all such openings and removals of the soil, except by express permission of the council, and at such times and upon such terms and regulations as they may prescribe.

HISTORY: CL 1897, 3185;—CL 1915, 3099;—CL 1929, 2023;—CL 1948, 102.13.

102.14 Use of highways and streets.

Sec. 14. The council may regulate the use of the public highways, streets, avenues and alleys of the city, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or designate the places where loads of wood, coal, hay and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use, or placing of signs, advertisements, and banners, awning-posts and telegraph, telephone or light poles and wires in or over the streets; to prohibit immoderate riding and driving in the streets or over bridges; to regulate or prohibit all such sports, amusements, proceedings and gathering of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of beasts and fowls in the streets or elsewhere in the city, and to impose penalties upon the owners or keepers thereof permitting the same; to cleanse and purify the streets; and to prohibit, prevent, remove and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same and to punish them; and generally to prescribe and enforce all such police regulations over and in respect to the public streets, as may be necessary to secure good order and safety to persons and property in the lawful use thereof; and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the city as are conferred by law upon highway commissioners in townships.

HISTORY: CL 1897, 3186;—CL 1915, 3100;—CL 1929, 2024;—CL 1948, 102.14.

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CHAPTER XXIII—SIDEWALKS.

103.1 Sidewalks; control; grading; construction, maintenance.
103.2 Sidewalks; required construction and repair by owners at public expense.
103.3 Sidewalks; removal of snow, ice; repair, removal of obstructions.
103.4 Sidewalks; upkeep, failure of owner; work at owner's expense; assessment; suit.
103.5 Sidewalks; use regulated by council.

103.1 Sidewalks; control; grading; construction, maintenance.

Sec. 1. The city council shall have control of all sidewalks in the public streets and alleys of the city, and may prescribe the grade thereof, and change the same when deemed necessary. They shall have power to build, maintain and keep in repair sidewalks and crosswalks in the public streets and alleys, and to charge the expense of constructing and maintaining such sidewalks upon the lots and premises adjacent to and abutting upon such walks.

HISTORY: CL 1897, 3187;—CL 1915, 3101;—CL 1929, 2025;—CL 1948, 103.1.

103.2 Sidewalks; required construction and repair by owners at public expense.

Sec. 2. The council shall also have authority to require the owners and occupants of lots and premises to build, rebuild and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials and manner of construction, and within such time as the council shall by ordinance or resolution prescribe, the expense thereof to be paid by such owner or occupant; or the council may by a 2/3 vote of all the aldermen elect pay such part of the expense of building or rebuilding such walk as they may deem proper from the general street fund, or from the street district fund of any street district in which such walk may be located.

HISTORY: CL 1897, 3188;—CL 1915, 3102;—CL 1929, 2026;—CL 1948, 103.2.

103.3 Sidewalks; removal of snow, ice; repair, removal of obstructions.

Sec. 3. The council shall also have power either by ordinance or resolution to cause and require the owners and occupants of any lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to such lot and premises, and to keep the same free from obstructions, encroachments, encumbrances, filth and other nuisances; Provided, That the council may by a 2/3 vote of all the aldermen elect provide by ordinance for the rebuilding, maintaining and keeping in repair of all sidewalks within the city, and for the removing of all ice and snow therefrom, and for keeping the same free from encumbrances, and pay the expense thereof from the general street fund, or from the street district fund of any street district in which the same may be located.

HISTORY: CL 1897, 3189;—CL 1915, 3103;—CL 1929, 2027;—CL 1948, 103.3.

103.4 Sidewalks; upkeep, failure of owner; work at owner's expense; assessment; suit.

Sec. 4. If the owner or occupant of any lot or premises shall fail to build, rebuild or maintain any particular sidewalk as mentioned and prescribed in the last 2 sections, or shall fail to keep the same in repair, or remove the snow, ice and filth therefrom, or to remove and keep the same free from obstructions, encroachments, encumbrances or other nuisances, or shall fail to perform any other duty required by the council or board of public works in respect to such sidewalks, within such time and such manner as the council shall require, the council may cause the same to be done, and such sidewalk to be built, rebuilt or repaired, and the expense, or such part thereof as the council shall have determined, shall be charged to such owner or occupant, and the council may cause the amount of such expenses incurred thereby, for which such owner or oc-

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cupant shall have become liable, together with a penalty of 10 per cent in addition thereto, to be reported to the board of special assessors, to be levied by them as a special tax or assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review, after proper notice is given as in all other cases of special assessments provided for by this act, and such tax when confirmed shall be a lien upon such lot or premises the same as other special assessments, and the council shall order the supervisors of the ward in which such lot or premises are situated, to spread said amount together with such penalty upon his roll as a special assessment upon such lot or premises, and the same shall be collected in the same manner as other city taxes; or the city may collect such amount, together with the penalty aforesaid, from the owner or occupant of such premises in an action of assumpsit, together with costs of suit.

HISTORY: CL 1897, 3190;—CL 1915, 3104;—CL 1929, 2028;—CL 1948, 103.4.

103.5 Sidewalks; use regulated by council.

Sec. 5. The council shall have power to regulate and prohibit the placing of signs, awnings, awning posts and of other things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks, and of all vaults, structures and excavations under the same; and to prohibit and prevent obstructions, encumbrances or other nuisances upon the walks.

HISTORY: CL 1897, 3191;—CL 1915, 3105;—CL 1929, 2029;—CL 1948, 103.5.

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CHAPTER XXIV—COST OF IMPROVEMENTS—SPECIAL ASSESSMENTS.

104.1 Expenses met from general fund; boulevard lighting; assessments.
104.2 Special assessment board; compensation, duties; prohibited interest.
104.3 Public improvements; petition; special assessment resolution.
104.4 Public improvements; expense estimates; public examination of diagrams, notice, objections; authorizing vote.
104.5 Public improvements; costs and expenses defrayable by special assessments.
104.6 Special assessment; levy.
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104.8 Assessment roll preparation.
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104.11 Special assessment; determination by council; report.
104.12 Special assessment; roll; charges levied, report to council.
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104.19 Special assessment; installment rolls.
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104.21 Special assessment; deficiency assessments.
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104.24 Special assessment; report to supervisors, contents; ward tax roll; lien.
104.25 Special assessment; collection from assessment roll, procedure.
104.26 Special assessment; collection by treasurer; sale, proceeds.
104.27 Warrant and assessment roll; contents, treasurer's return to city clerk.
104.28 Warrant; manner of renewal; unpaid taxes, reassessment.
104.29 Special assessment; unpaid; assumpsit action, evidence of roll.
104.30 Assessment; irregularities, effect.

104.1 Expenses met from general fund; boulevard lighting; assessments.

Sec. 1. The cost and expense of the following improvements including the necessary lands therefor, viz.: For city hall and other public buildings and offices for the use of the city officials, engine houses, and structures for the fire department, for water works, lighting purposes, hospitals, quarantine grounds or pest houses, market houses and spaces, cemeteries and parks, watch houses, city prisons and work houses, and public wharves and landings upon navigable waters, levees and embankments, shall be paid from the general funds of the city: Provided, however, That if the majority of the property owners along a street owning a major portion of the frontage thereon, shall so petition the council in writing, the cost and expense of installing a boulevard lighting system on such street may be met by special assessment upon the lands abutting thereon. When by the provisions of this act the cost and expenses of any local or public improvement may be defrayed in whole or in part by special assessment upon lands abutting upon and adjacent to or otherwise benefited by the improvement, such assessment may be made as in this chapter provided.

HISTORY: CL 1897, 3192;—CL 1915, 3106;—Am. 1921, p. 301, Act 140, Eff. Aug. 18;—CL 1929, 2030;—CL 1948, 104.1.

COST-PLUS CONTRACTS: Prohibited in certain cases, see Compilers' §§ 17.41 and 17.42.

SPECIAL ASSESSMENTS: Personal liability for, see Compilers' §§ 211.501 and 211.502.

For validation of sewer, paving, etc., assessments, see Act 324 of 1919, being Compilers' § 115.11.

104.2 Special assessment board; compensation, duties; prohibited interest.

Sec. 2. There shall be a board of special assessors in every city, consisting of the city surveyor, and 2 other members, who shall be freeholders and electors in the city, to be appointed by the mayor, by and with the consent of the council. Their compensation shall be prescribed by the council. Special assessments authorized by this act shall be made by such board. If a member of the board shall be interested in any special assess-

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ment directed by the council, they shall appoint some other person to act in his stead in making the assessment, who for the purposes of that assessment shall be a member of the board.

HISTORY: CL 1897, 3193;—CL 1915, 3107;—CL 1929, 2031;—CL 1948, 104.2.

ASSESSORS: See notes to Compilers' § 68.2.

104.3 Public improvements; petition; special assessment resolution.

Sec. 3. When the owners of a majority of the lands liable to be assessed in any special assessment district, or part of the city which may be constituted a special assessment district, shall petition the council for any public improvement except sewers, the council shall order such improvement to be made. In other cases public improvements shall be made in the discretion of the council. When the council shall determine to make any public improvement or repairs, and defray the whole or any part of the cost and expenses thereof by special assessment, they shall so declare by resolution, stating the improvement and what part or proportion of the expenses thereof shall be paid by special assessment, and what part, if any, shall be appropriated from the general funds of the city, or from street district funds, and shall designate the district or lands and premises upon which the special assessment shall be levied.

HISTORY: CL 1897, 3194;—Am. 1899, p. 191, Act 136, Imd. Eff. June 21;—CL 1915, 3108;—CL 1929, 2032;—CL 1948, 104.3.

104.4 Public improvements; expense estimates; public examination of diagrams, notice, objections; authorizing vote.

Sec. 4. Before ordering any public improvements or repairs, any part of the expenses of which is to be defrayed by special assessment, the council shall cause estimates of the expense thereof to be made, and also plats and diagrams, when practicable, of the work and of the locality to be improved, and deposit the same with the city clerk for public examination; and they shall give notice thereof and of the proposed improvement or work, and of the district to be assessed, by publication for 2 weeks at least in 1 of the newspapers of the city, and of the time when the council will meet and consider any objections thereto. Unless a majority of the persons to be assessed shall petition therefor, no such improvement or work shall be ordered, except by the concurrence of 2/3 of the aldermen elect.

HISTORY: CL 1897, 3195;—CL 1915, 3109;—CL 1929, 2033;—CL 1948, 104.4.

104.5 Public improvements; costs and expenses defrayable by special assessments.

Sec. 5. The cost and expenses of any improvement which may be defrayed by special assessment shall include the costs of surveys, plans, assessments and costs of construction.

HISTORY: CL 1897, 3196;—CL 1915, 3110;—CL 1929, 2034;—CL 1948, 104.5;—Am. 1969, p. 175, Act 89, Imd. Eff. Jul. 24.

104.6 Special assessment; levy.

Sec. 6. Special assessments to defray the estimated cost of any improvement shall be levied before the making of the improvement.

HISTORY: CL 1897, 3197;—CL 1915, 3111;—CL 1929, 2035;—CL 1948, 104.6.

104.7 Special assessment; council's directory resolution, contents.

Sec. 7. When any special assessment is to be made pro rata upon the lots and premises in any special district, according to frontage or benefits, the council shall, by resolution, direct the same to be made by the board of assessors; and shall state therein the amount to be assessed, and whether according to frontage or benefits; and describe or designate the lots and premises, or locality constituting the district to be assessed.

HISTORY: CL 1897, 3198;—CL 1915, 3112;—CL 1929, 2036;—CL 1948, 104.7.

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104.8 Assessment roll preparation.

Sec. 8. Upon receiving such order and directions, the board of assessors shall make out an assessment roll, entering and describing therein all the lots, premises and parcels of land to be assessed, with the names of the persons, if known, chargeable with the assessments thereon; and shall levy thereon and against such persons the amount to be assessed, in the manner directed by the council and the provisions of this act, applicable to the assessment; and if the several descriptions thus to be assessed in any special assessment district shall extend into more than 1 ward of the city, the board of assessors shall enter the several descriptions situated in any 1 ward by themselves, separate from those of the others. In all cases where the ownership of any description is unknown to the board of assessors, they shall, in lieu of the name of the owner, insert the name "Unknown"; and if by mistake or otherwise any person shall be improperly designated as the owner of any lot, parcel of land or premises, or if the same shall be assessed without the name of the owner, or in the name of a person other than the owner, such assessment shall not, for any such cause, be vitiated, but shall, in all respects, be as valid upon and against such lot, parcel of land or premises as though assessed in the name of the proper owner, and, when the assessment roll shall have been confirmed, be a lien on such lot, parcel of land or premises, and collected as in other cases.

HISTORY: CL 1897, 3199;—CL 1915, 3113;—CL 1929, 2037;—CL 1948, 104.8.

104.9 Assessment roll preparation; equitable rules; certificate, form.

Sec. 9. If the assessment is required to be according to frontage, the board of assessors shall assess to each lot or parcel of land such relative portion of the whole amount to be levied as the length of front of such premises abutting upon the improvement bears to the whole frontage of all the lots to be assessed, unless on account of the shape or size of any lot, an assessment for a different number of feet would be more equitable. If the assessment is directed to be according to benefits, they shall assess upon each lot such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot from the improvement. When the board shall have completed the assessment they shall report the same to the council; such report, to be signed by at least 2 of the assessors, may be in the form of a certificate, indorsed on the assessment roll, as follows:

STATE OF MICHIGAN,
City of ..... } ss.

To the Council of the City of .....

We hereby certify and report, that the foregoing is the special assessment roll, and the assessment made by us pursuant to a resolution of the council of said city, adopted (give date) for the purpose of paying that part of the cost which the council decided should be paid and borne by special assessment for the (here insert the object of the assessment); that in making such assessment we have, as near as may be and according to our best judgment, conformed in all things to the directions contained in the resolution of the council hereinbefore referred to, and the charter of the city relating to such assessments.

Dated .....

.....,
.....,
.....,

HISTORY: CL 1897, 3200;—CL 1915, 3114;—CL 1929, 2038;—CL 1948, 104.9.

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104.10 Expense borne by single lot; manner of assessment.

Sec. 10. When any expense shall be incurred by the city upon or in respect to any separate or single lot, parcel of land or premises which by the provisions of this act, the council is authorized to charge and collect as a special assessment against the same, and not being of that class of special assessments required to be made pro rata upon several lots or parcels of land in a special assessment district, an account of the labor or services for which such expense was incurred, verified by the officer or person performing the labor or services, or causing the same to be done, with a description of the lot or premises upon or in respect to which the expense was incurred, and the name of the owner or person, if known, chargeable therewith, shall be reported to the council in such manner as they shall prescribe. And the provisions of the preceding sections of this chapter with reference to special assessments generally, and the proceedings necessary to be had before making the improvement shall not apply to assessments to cover the expenses incurred, in respect to that class of improvements contemplated in this section.

HISTORY: CL 1897, 3201;—CL 1915, 3115;—CL 1929, 2039;—CL 1948, 104.10.

104.11 Special assessment; determination by council; report.

Sec. 11. The council shall determine what amount or part of every such expense shall be charged, and the person, if known, against whom, and the premises upon which the same shall be levied as a special assessment; and as often as the council shall deem it expedient they shall require all of the several amounts so reported and determined, and the several lots or premises, and the persons chargeable therewith, respectively, to be reported by the city clerk to the board of assessors for assessment.

HISTORY: CL 1897, 3202;—CL 1915, 3116;—CL 1929, 2040;—CL 1948, 104.11.

104.12 Special assessment; roll; charges levied, report to council.

Sec. 12. Upon receiving the report mentioned in the preceding section, the board of assessors shall make a special assessment roll, and levy as a special assessment therein, upon each lot or parcel or [of] land so reported to them, and against the persons chargeable therewith, if known, the whole amount or amounts of all the charges so directed as aforesaid to be levied upon each of such lots or premises respectively and when completed they shall report the assessment to the council; and all the several assessments in each ward shall be kept separate the same as is required in section 8 of this chapter.

HISTORY: CL 1897, 3203;—CL 1915, 3117;—CL 1929, 2041;—CL 1948, 104.12.

104.13 Special assessment; filing, notice, form; objections.

Sec. 13. When any special assessment shall be reported by the board of assessors to the council, as in this chapter directed, the same shall be filed in the office of the city clerk and numbered consecutively. Before adopting such assessment, the council shall cause notice to be published 2 weeks at least, in some newspaper of the city, of the filing of the same with the city clerk, and appointing a time when the council and board of assessors will meet to review said assessment. Any person objecting to the assessment may file his objections thereto in writing with the city clerk. The notice provided for in this section may be addressed to the persons whose names appear upon the special assessment roll, and to all others interested therein, and may be in the following form:

NOTICE OF SPECIAL ASSESSMENT.

To (insert the names of the persons against whom the assessment appears), and to all other persons interested, take notice: That the roll of the special assessment heretofore made by the board of assessors for the purpose of defraying that part of the cost which

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the council decided should be paid and borne by special assessment for the (insert the object of the assessment and the locality of the proposed improvement in general terms) is now on file in my office for public inspection. Notice is also hereby given, that the council and board of assessors of the city of ..... will meet at the council room in said city on (insert the date fixed upon) to review said assessment, at which time and place opportunity will be given all persons interested to be heard.

Dated ....., City Clerk.

HISTORY: CL 1897, 3204;—CL 1915, 3118;—CL 1929, 2042;—CL 1948, 104.13.

104.14 Special assessment; review; corrections; confirmation.

Sec. 14. At the time and place appointed for the purpose as aforesaid, the council and board of assessors shall meet and there, or at some adjourned meeting, review the assessment; and shall hear any objections to any assessment which may be made by any person deeming himself aggrieved thereby, and the council may correct said roll as to any assessment, or description of premises, appearing therein, and may confirm it as reported, or as corrected; or they may refer the assessment back to the board for revision; or annul it and direct a new assessment; in which case the same proceedings shall be had as in respect to the previous assessment. When a special assessment shall be confirmed, the city clerk shall make an endorsement upon the roll showing the date of confirmation.

HISTORY: CL 1897, 3205;—CL 1915, 3119;—CL 1929, 2043;—CL 1948, 104.14.

104.15 Special assessment; confirmation final.

Sec. 15. When any special assessment shall be confirmed by the council, it shall be final and conclusive.

HISTORY: CL 1897, 3206;—CL 1915, 3120;—CL 1929, 2044;—CL 1948, 104.15.

104.16 Special assessment; lien on property.

Sec. 16. All special assessments shall, from the date of the confirmation thereof, constitute a lien upon the respective lots or parcels of land assessed, and shall be charged against the person to whom assessed until paid.

HISTORY: CL 1897, 3207;—CL 1915, 3121;—CL 1929, 2045;—CL 1948, 104.16.

104.17 Special assessment; division of installments; collection; interest.

Sec. 17. Upon the confirmation of any special assessment, the amount thereof may be divided into not more than 20 installments, 1 of which shall be collected each year, at such times as the council shall determine, with annual interest at a rate not exceeding 6% per annum, but the whole assessment after confirmation may be paid to the city treasurer at any time in full, with the proportionate interest thereon.

HISTORY: CL 1897, 3208;—CL 1915, 3122;—Am. 1919, p. 430, Act 241, Eff. Aug. 14;—CL 1929, 2046;—CL 1948, 104.17;—Am. 1969, p. 175, Act 89, Imd. Eff. Jul. 24.

104.18 Special assessment; payable upon confirmation.

Sec. 18. All special assessments, except such installments thereof as the council shall make payable at a future time, as provided in the preceding section, shall be due and payable upon confirmation.

HISTORY: CL 1897, 3209;—CL 1915, 3123;—CL 1929, 2047;—CL 1948, 104.18.

104.19 Special assessment; installment rolls.

Sec. 19. If any special assessment shall be divided into installments, a special assessment roll shall be made for each installment as the same shall become due, with the accrued interest upon all unpaid installments included and assessed therein. Such special rolls may be made and confirmed without notice to the persons assessed.

HISTORY: CL 1897, 3210;—CL 1915, 3124;—CL 1929, 2048;—CL 1948, 104.19.

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104.20 Special assessment; divided lands, apportionment.

Sec. 20. Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, and before the collection of all the installments, the council may require the board of assessors to apportion the uncollected amounts upon the several parts of lots and lands so divided. The report of such apportionment, when confirmed, shall be conclusive upon all the parties, and all assessments thereafter made upon such lots or lands shall be according to such division.

HISTORY: CL 1897, 3211;—CL 1915, 3125;—CL 1929, 2049;—CL 1948, 104.20.

104.21 Special assessment; deficiency assessments.

Sec. 21. Should any special assessment prove insufficient to pay for the improvement or work for which it was levied, and the expenses incident thereto, the council may, within the limitations prescribed for such assessments, make an additional pro rata assessment to supply the deficiency; and in case a larger amount shall have been collected than was necessary, the excess shall be refunded ratably to those by whom it was paid.

HISTORY: CL 1897, 3212;—CL 1915, 3126;—CL 1929, 2050;—CL 1948, 104.21.

104.22 Special assessment; illegal; reassessment procedure.

Sec. 22. Whenever any special assessment shall, in the opinion of the council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or part thereof, levied upon any premises in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment on said premises, and the reassessment shall to that extent be deemed satisfied.

HISTORY: CL 1897, 3213;—CL 1915, 3127;—CL 1929, 2051;—CL 1948, 104.22.

104.23 Special assessment; equitable lien unimpaired by judgment.

Sec. 23. No judgment or decree, nor any act of the council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed, for such amount of the assessment as may be equitably charged against the same, or, as by a regular mode of proceeding, might have been lawfully assessed thereon.

HISTORY: CL 1897, 3214;—CL 1915, 3128;—CL 1929, 2052;—CL 1948, 104.23.

104.24 Special assessment; report to supervisors, contents; ward tax roll; lien.

Sec. 24. Whenever any special assessment shall be confirmed and be payable, the council may direct the city clerk to report to the supervisor of each ward in which any of the lots and premises assessed in the special assessment roll are located, a description of such lots and premises as are contained in said roll, with the amount of the assessment levied upon each, and the name of the owner or occupant against whom the assessment was made, and direct said supervisor to levy the several sums so assessed as a tax upon the several lots and premises to which they were assessed respectively. Upon receiving said report, the supervisor shall levy the sums therein mentioned upon the respective lots and premises to which they are specially assessed, and against the persons chargeable therewith, as a tax, in such ward tax roll next thereafter to be

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made, in a column for special assessments, and thereupon the amounts so levied in said ward tax roll shall be collected and enforced with the other taxes in the ward tax roll, and in the same manner; and shall continue to be a lien upon the premises assessed, until paid, and when collected shall be paid into the city treasury.

HISTORY: CL 1897, 3215;—CL 1915, 3129;—CL 1929, 2053;—CL 1948, 104.24.

104.25 Special assessment; collection from assessment roll, procedure.

Sec. 25. When any special assessment shall be confirmed, and be payable as hereinbefore provided, the council, instead of requiring the assessments to be reported to the supervisor of the ward as provided in the preceding section, may direct the assessment so made in the special assessment roll to be collected directly therefrom; and thereupon the city clerk shall attach his warrant to a certified copy of said special assessment roll, therein commanding the city treasurer to collect from each of the persons assessed in said roll the amount of money assessed to and set opposite his name therein; and in case any person named in said roll shall neglect or refuse to pay his assessment upon demand, then to levy and collect the same by distress and sale of the goods and chattels of such person; and return said roll and warrant, together with his doings thereon, within 60 days from the date of such warrant.

HISTORY: CL 1897, 3216;—CL 1915, 3130;—CL 1929, 2054;—CL 1948, 104.25.

104.26 Special assessment; collection by treasurer; sale, proceeds.

Sec. 26. Upon receiving said assessment roll and warrant, the city treasurer shall proceed to collect the amounts assessed therein. If any person shall neglect or refuse to pay his assessment upon demand, the treasurer shall seize and levy upon any personal property found within the city, or elsewhere within the county, belonging to such person, and sell the same at public auction, first giving 6 days' notice of the time and place of such sale, by posting such notices in 3 of the most public places in the city or township where such property may be found. The proceeds of such sale, or so much thereof as may be necessary for that purpose, shall be applied to the payment of the assessment, and a percentage of 5 per centum upon the amount of the assessment for the costs and expenses of said seizure and sale, and the surplus, if any, shall be paid to the person entitled thereto.

HISTORY: CL 1897, 3217;—CL 1915, 3131;—CL 1929, 2055;—CL 1948, 104.26.

104.27 Warrant and assessment roll; contents, treasurer's return to city clerk.

Sec. 27. The treasurer shall make return of said assessment roll and warrant to the city clerk according to the requirement of the warrant, and if any of the assessments in said roll shall be returned unpaid, the treasurer shall attach to his return a statement, verified by affidavit, containing a list of the persons delinquent, and a description of the lots and premises upon which the assessments remain unpaid, and the amount unpaid on each.

HISTORY: CL 1897, 3218;—CL 1915, 3132;—CL 1929, 2056;—CL 1948, 104.27.

104.28 Warrant; manner of renewal; unpaid taxes, reassessment.

Sec. 28. Said warrant may be renewed from time to time by the city clerk, if the council shall so direct, and for such time as they shall determine, and during the time of such renewal the warrant shall have the same force, and the city treasurer shall perform the same duties and make the like returns, as above provided. In case any assessment shall be finally returned by the city treasurer unpaid, as aforesaid, the same may be certified to the supervisor of the proper ward in the manner provided in section 24 of this chapter, and shall then be reassessed with interest included at the rate of 10 per cent per annum from the date of the confirmation of the assessment until the first day of December next, or where the common council of any city has adopted the plan of having the taxes of such city collected in 2 installments as authorized in section 2 of

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chapter 30 of this act, interest shall be computed until the first day of July if the next tax roll be for city taxes payable July first, or until the first day of December if the next tax roll be for general taxes payable December first, in the next ward tax roll, and be collected and paid in all respects as provided in section 24 aforesaid.

HISTORY: Am. 1897, p. 321, Act 239, Imd. Eff. June 2;—CL 1897, 3219;—CL 1915, 3133;—CL 1929, 2057;—CL 1948, 104.28.
NOTE: Sec. 2, Ch. XXX, above referred to, is Compilers' § 110.2.

104.29 Special assessment; unpaid; assumpsit action, evidence of roll.

Sec. 29. At any time after a special assessment has become payable, the same may be collected by suit, in the name of the city, against the person assessed, in an action of assumpsit in any court having jurisdiction of the amount. In every such action a declaration upon the common count for money paid shall be sufficient. The special assessment roll and a certified order or resolution confirming the same shall be prima facie evidence of the regularity of all the proceedings in making the assessment, and of the right of the city to recover judgment therefor.

HISTORY: CL 1897, 3220;—CL 1915, 3134;—CL 1929, 2058;—CL 1948, 104.29.

104.30 Assessment; irregularities, effect.

Sec. 30. If in any such action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the defendant, or upon the lot or premises sought to be charged, the court may, nevertheless, on satisfactory proof that expense has been incurred by the city, which is a proper charge against the defendant, or the lot or premises in question, render judgment for the amount properly chargeable against such defendant, or upon such lot or premises.

HISTORY: CL 1897, 3221;—CL 1915, 3135;—CL 1929, 2059;—CL 1948, 104.30.

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CHAPTER XXV—APPROPRIATION OF PRIVATE PROPERTY.

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105.1 Condemnation.

Sec. 1. Private property may be appropriated for public use in any city for the purpose of opening, widening, altering or extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures, for public grounds, parks, market places and spaces; for public wharves, docks, slips, basins and landings on navigable waters, and for the improvement of water courses; for sewers, drains and ditches; for public hospitals, pest houses, quarantine grounds and public cemeteries, and for other lawful and necessary public uses.

HISTORY: CL 1915, 3136;—CL 1929, 2060;—CL 1948, 105.1.

Chapter 25 of this act appears here as amended, 1899, p. 191, Act 136, Imd. Eff. June 21. For former chapter 25, see CL 1897, 3222-3246.

105.2 Condemnation; proceedings.

Sec. 2. If it shall become necessary to appropriate private property for the public uses or purposes specified in the preceding section, the right to occupy and hold the same and the ownership therein and thereto may be acquired by the city either in the manner and with like effect as provided by the general laws of this state relating to the taking of private property for public use in cities and villages, or by instituting and prosecuting the proceedings for that purpose as hereinafter set forth.

HISTORY: CL 1915, 3137;—CL 1929, 2061;—CL 1948, 105.2.

105.3 Condemnation; resolution of council; suit.

Sec. 3. Whenever the council shall have declared a public improvement to be necessary in the municipality and shall have declared that they deem it necessary to take private property, describing it, for such public improvement, designating it, and that the improvement is for the use or benefit of the public, they shall, by resolution, direct the city attorney to institute the necessary proceedings in behalf of the municipality, before the probate court as they may designate, to carry out the object of the resolution in regard to taking private property by the city for such public use.

HISTORY: CL 1915, 3138;—CL 1929, 2062;—CL 1948, 105.3.

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105.4 Condemnation; certified copy of resolution, delivery to attorney; petition, contents; filing; evidence.

Sec. 4. The city clerk shall make and deliver to such attorney, as soon as may be, a copy of such resolution certified under seal, and it shall be the duty of such attorney to prepare and file with such probate court in the name of the city, a petition signed by him in his official character and duly verified by him; to which petition a certified copy of the resolution of the council shall be annexed, which certified copy shall be prima facie evidence of the action taken by the council and of the passage of the said resolution. The petition shall state, among other things, that it is made and filed as commencement of judicial proceedings by the municipality in pursuance of this act to acquire the right to take private property for the use or benefit of the public, without consent of the owners, for a public improvement, designating it, for a just compensation to be made. A description of the property to be taken shall be given, and generally the nature and extent of the use thereof that will be required in making and maintaining the improvement shall be stated, and also the names of the owners and others interested in the property, so far as can be ascertained, including those in possession of the premises. The petition shall also state that the council has declared such public improvement to be necessary and that they deem it necessary to take the private property described in that behalf for such improvement for the use or benefit of the public. The petition shall ask that a jury be summoned and impaneled to ascertain and determine whether it is necessary to make such public improvement, whether it is necessary to take such private property as it is proposed to take for the use or benefit of the public, and to ascertain and determine the just compensation to be made therefor. The petition may state any other pertinent matter or things, and may pray for any other or further relief to which the municipality may be entitled, within the objects of this chapter.

HISTORY: CL 1915, 3139;—CL 1929, 2063;—CL 1948, 105.4.

105.5 Probate court summons; contents.

Sec. 5. Upon receiving such petition it shall be the duty of the said probate court to issue a summons against the respondents named in such petition, stating briefly the object of said petition, and commanding them, in the name of the people of the state of Michigan, to appear before said probate court at a time and place to be named in said summons, not less than 20 nor more than 40 days from the date of the same, and show cause, if any they have, why the prayer of said petition should not be granted.

HISTORY: CL 1915, 3140;—CL 1929, 2064;—CL 1948, 105.5.

105.6 Probate court summons; service; guardian ad litem; appearance order; alias, pluries summons; return, filing; evidence.

Sec. 6. Said summons shall be served by the city marshal, any member of the police force or any constable of the city, at least 5 days before the return day thereof, upon all the respondents found within the county, by exhibiting the original and delivering a copy to each of them. If any respondent who is a resident of the county cannot be found, the summons shall be served by leaving a copy thereof at his or her usual or the last place of abode, with some person of suitable age and discretion. If any minor or person of unsound mind is interested in the premises to be taken, service may be made on the guardian of such person, if any, and if there is no guardian, the probate court may appoint some discreet and proper person to be guardian ad litem of such person in such proceedings, and such guardian shall have authority to represent such person in said proceedings. The proceedings to appoint such guardian shall be the same as in other cases provided by statute. If it shall appear on the return day of the summons that any respondent cannot be found within the county and has not been served in the manner provided, or is non-resident and has not voluntarily appeared, the court may

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make an order requiring such respondent or respondents to appear and show cause why the prayer of the petition should not be granted, on a day to be named in the order, and not less than 30 days from the date thereof, and may require that a certified copy of such order be personally served on such respondents wherever found, if practicable, at least 6 days before the time named in order for appearance, or the court may make such order for appearance and require as to any or all such respondents who shall not have been personally served and have not appeared, that service be made by publishing a certified copy of such order for 3 successive weeks, at least once in each week, in at least 1 newspaper published within the municipality, the last publication to be at least 6 days before the day fixed in the order for appearance. Alias and pluries summons may be issued, and the probate court may adjourn the proceedings from time to time as there shall be occasion, and as in other civil cases. Service of such order for appearance in either mode described shall be sufficient notice of the proceedings to bind the respondents and the property represented by them. The return of the officer upon the summons and an affidavit of the due service or the publication of the order for appearance, if any, shall be filed with such probate court before a jury shall be impaneled, and be sufficient evidence of service on the respondents and of the manner of service.

HISTORY: CL 1915, 3141;—CL 1929, 2065;—CL 1948, 105.6.

105.7 Probate court; impaneling jury; composition of jury.

Sec. 7. On the return day of the summons, or on some subsequent day to which the proceedings are adjourned, if no sufficient cause to the contrary has been shown, the probate court shall make an order that a jury be impaneled in the case. Such jury shall be composed of 12 freeholders of the municipality and shall be selected and impaneled as follows: The city marshal or any constable or any member of the police force of such city shall, on the same day, or at an adjourned day, make a list of 24 resident freeholders of said city, and the city attorney and the respondents collectively, shall each have the right to strike 6 names from the list of persons written down as aforesaid, and, subject to objection for cause; the 12 persons whose names are left on the list shall compose the jury for the trial of the cause and shall be summoned to attend at not less than 3 nor more than 10 days from the date of selecting such jury, by a venire issued by him and to be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from said list, it shall be done by the probate judge, and in case any of the persons to be summoned cannot by him be found in the county, or being summoned do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such officer, and the practice and proceedings under this chapter, except as herein otherwise provided, relative to impaneling, summoning and excusing jurors and talesmen and imposing penalties or fines upon them for nonattendance, shall be the same as the practice and proceedings of justice courts relative to jurors in civil cases in such courts.

HISTORY: CL 1915, 3142;—CL 1929, 2066;—CL 1948, 105.7.

105.8 Probate court; oath of jurors, form; duties; instruction; verdict.

Sec. 8. The jurors so impaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain and determine whether there is a public necessity for making the proposed improvement and for taking for the use or benefit of the public the private property which the petition describes and prays may be taken, and if you shall determine that it is necessary to make such improvement, and to take said property, that then you ascertain, determine and award the just compensation to be made therefor, and faithfully and impartially discharge all other duties as devolve upon you in this case, and unless discharged by the court, a true verdict give, according to the law and evidence, so help you God

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(or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property proposed to be taken, and examine the premises. They shall be instructed as to their duties and the law of the case by the probate judge, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and be signed by all jurors.

HISTORY: CL 1915, 3143;—CL 1929, 2067;—CL 1948, 105.8.

105.9 Probate court; verdict of jury; contents, necessity, damages.

Sec. 9. The jury shall determine in their verdict the necessity for the proposed improvement and for taking such private property for the use or benefit of the public for the proposed improvement, and in case they find such necessity exists, they shall separately award to the owners of such property and others interested therein such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just.

HISTORY: CL 1915, 3144;—CL 1929, 2068;—CL 1948, 105.9.

105.10 Probate court; jury to retire with petition, map, blank verdict; form of verdict.

Sec. 10. To assist the jury in arriving at their verdict, the probate court may allow the jury, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement and of each and all parcels of property to be taken, and may also submit to them a blank verdict, which may be as follows:

PART I.

We find that it is ..... necessary to take the private property described in the petition in this cause, for the use and benefit of the public for the proposed public improvement.

PART II.

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Description of each of the several parcels of private property to be taken.	Owners, occupants and others interested in each parcel.	Compensation.	To whom payable.

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the probate court, before it is submitted to the jury, or it may be done by the jury.

HISTORY: CL 1915, 3145;—CL 1929, 2069;—CL 1948, 105.10.

105.11 Probate court; amendments allowed.

Sec. 11. Amendments either in form or substance may be allowed in any paper, petition, process, record or proceeding, or in the description of property proposed to be

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taken, or the name of any person, whether contained in a resolution passed by the council or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after as well as before judgment confirming the verdict of the jury.

HISTORY: CL 1915, 3146;—CL 1929, 2070;—CL 1948, 105.11.

105.12 Probate court; docket entries, copy; confirmation judgement on application, time; new proceedings; appeal.

Sec. 12. Upon filing the report and award made by any jury with said probate court he shall enter it upon the docket of his proceedings, and a copy thereof may be taken by the city attorney for the use of the council; and at any time thereafter, and within 40 days after the impaneling of the jury making the report, the probate court, upon the application of the city council, shall enter judgment of confirmation of the determination and awards therein made. Unless such application and confirmation shall be made within said 40 days, all proceedings upon that report and award shall be at an end, and a new jury and new proceedings may be had, as in the case of a disagreement of the jury. All parties interested in such report shall take notice of the confirmation thereof. Any such judgment of confirmation shall be final and conclusive as to all parties not appealing therefrom within the time hereinafter provided.

HISTORY: CL 1915, 3147;—CL 1929, 2071;—CL 1948, 105.12.

105.13 Probate court; disagreement of jury; impaneling new jury.

Sec. 13. If such jury should be unable to agree upon a verdict, or for any cause should fail to render a verdict, said probate court shall, on the application of the city attorney, designate some day and hour when another jury may be impaneled, and such other jury shall be obtained, drawn, summoned, returned, bound to attend and serve, have the same qualifications, be sworn, and when sworn have the same powers and duties as the first jury. The same proceedings after they are sworn shall be had by them, and by and before said probate court as provided for above after the first jury is sworn.

HISTORY: CL 1915, 3148;—CL 1929, 2072;—CL 1948, 105.13.

JURY: See Compilers' § 105.7 et seq.

105.14 Juror; disability; procedure.

Sec. 14. If any juror, after being sworn, and before the hearing shall have been commenced, shall die, or from sickness or any other cause be unable to discharge his duties as a juror, said probate court may cause to be drawn another person to serve in his place, who shall be sworn, and shall have the like qualifications, powers and duties as those already sworn.

HISTORY: CL 1915, 3149;—CL 1929, 2073;—CL 1948, 105.14.

105.15 Circuit court; appeal, procedure; bond.

Sec. 15. Any party aggrieved by the judgment of confirmation hereinbefore mentioned, may, within 10 days after the entry thereof, appeal therefrom to the circuit court of the county, by filing with the probate court a claim of appeal, in writing, under oath, in which he shall set forth a description of the land in which he claims an interest and a statement that he considers himself aggrieved by the proceedings and judgment of which he complains, and his objections, if any, to the amount of damages awarded, and at the same time filing with the probate court a bond to the city, in a penal sum of not less than 300 dollars, with sureties to be approved by said probate court, conditioned that he will prosecute his appeal to effect, and pay costs that may be awarded against him in the circuit court, and paying to the probate court the sum of 3 dollars for making his return to the appeal.

HISTORY: CL 1915, 3150;—CL 1929, 2074;—CL 1948, 105.15.

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105.16 Circuit court; probate court to return appeal.

Sec. 16. Within 10 days after taking such appeal said probate court shall make and certify a return to said appeal, setting forth a transcript from his docket of all the proceedings and the judgment of confirmation entered therein, and shall attach thereto the report of the jury, and all notices and papers filed with him, together with the bond and claim of appeal, and file the same with the clerk of such circuit court.

HISTORY: CL 1915, 3151;—CL 1929, 2075;—CL 1948, 105.16.

105.17 Circuit court; jurisdiction; proceedings.

Sec. 17. Upon filing the return to the probate court, as mentioned in the preceding section, the circuit court shall have jurisdiction of the case. The parties may proceed to trial by jury without reference to any term of court upon the question as to the amount of damages to be awarded; but the finding of the jury before the probate court as to the necessity of taking the land shall be held to be conclusive. The appeal of 1 or more persons interested in any judgment of confirmation shall not in any way affect said judgment as to other persons interested therein who do not appeal.

HISTORY: CL 1915, 3152;—CL 1929, 2076;—CL 1948, 105.17.

105.18 Circuit court jury; impaneling.

Sec. 18. The circuit judge shall make an order that a jury be impaneled in the case. Such jury shall be composed of 12 freeholders of the municipality or vicinity, and shall be selected and impaneled as follows: The city marshal or any member of the police force of such city shall, on the same day or at an adjourned day, make a list of 24 resident freeholders of said city or vicinity, and the city attorney and the respondents collectively shall each have the right to strike 6 names from the list of persons written down as aforesaid, and subject to objection for cause; the 12 persons whose names are left on the list shall compose the jury for the trial of the cause and shall be summoned to attend at not less than 3 nor more than 10 days from the date of selecting such jury, by a venire issued by him to be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from the list, it shall be done by the circuit judge, and in case any of the persons to be summoned cannot by him be found in the county, or being summoned do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such officer, and the practice and proceedings under this chapter, except as herein otherwise provided relative to impaneling, summoning and excusing jurors and talesmen, and imposing penalties or fines upon them for non-attendance, shall be the same as practice and proceedings of circuit courts relative to jurors in cases in such courts.

HISTORY: CL 1915, 3153;—CL 1929, 2077;—CL 1948, 105.18.

105.19 Circuit court; oath of jurors, form; duties; instruction.

Sec. 19. The jurors so impaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain, determine and award the just compensation to be made for the taking for the use or benefit of the public the private property which the petition describes, and that you will faithfully and impartially discharge all other duties as devolve upon you in this case, and unless discharged by the court, a true verdict give, according to the law and the evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property taken, and examine the premises. They shall be instructed as to their duties

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and the law of the case by the circuit judge, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and shall be signed by all jurors.

HISTORY: CL 1915, 3154;—CL 1929, 2078;—CL 1948, 105.19.

105.20 Circuit court; verdict of jury; contents, necessity, damages.

Sec. 20. The jury shall in their verdict separately award to the owners of such property, and others interested therein, such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just.

HISTORY: CL 1915, 3155;—CL 1929, 2079;—CL 1948, 105.20.

105.21 Circuit court; jury may retire with petition, map, blank verdict; form of verdict.

Sec. 21. To assist the jury in arriving at their verdict, the circuit judge may allow the jury, when they retire, to take with them the petition filed in the case, and a map showing the location of the proposed improvement and of each and all the parcels of property to be taken and may also submit to them a blank verdict which may be as follows:

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Description of each of the several parcels of private property to be taken.	Owners, occupants and others interested in each parcel.	Compensation.	To whom payable.

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the circuit judge, before it is submitted to the jury, or it may be done by the jury.

HISTORY: CL 1915, 3156;—CL 1929, 2080;—CL 1948, 105.21.

105.22 Circuit court; confirmation of proceedings; cost.

Sec. 22. Upon any dismissal of the appeal, or rendition of judgment after trial in the circuit court, said court shall confirm the proceedings and rights of the city to take and appropriate the lands of the appellant for the purpose mentioned in the resolution of the council. And unless the appellant shall recover judgment for at least 50 dollars more than the amount awarded to him before the probate court, he shall pay costs to the city; otherwise the court shall award such costs to him or to the city as shall be just.

HISTORY: CL 1915, 3157;—CL 1929, 2081;—CL 1948, 105.22.

105.23 Circuit court; judgment of confirmation; records of city clerk; contents, evidence.

Sec. 23. It shall be the duty of the city clerk to procure copies of any judgment of confirmation of the circuit court or of the probate court after the same has become final, as well as of the report and findings of the jury, and the same shall be recorded in a book of records to be kept by him, and the docket of such probate court, or the judgment of said court, as well as the book of records of such proceedings kept by said

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clerk, or certified copies thereof, shall be presumptive evidence of the matters therein contained, and of the regularity of all the proceedings to appropriate the property sought to be acquired and to confirm the same.

HISTORY: CL 1915, 3158;—CL 1929, 2082;—CL 1948, 105.23.

105.24 Verdict confirmed; sums awarded; procedure for collection; assessment; evidence; city purchaser at sale.

Sec. 24. When the verdict of the jury shall have been finally confirmed by the probate court and the time in which to take an appeal has expired, or, if an appeal is taken and the judgment has been confirmed, thereupon the proper and necessary proceedings, in due course, shall be taken for the collection of the sum or sums awarded by the jury. If the council believe that a portion of the city in the vicinity of the proposed improvement will be benefited by such improvement, they may by an entry in their minutes determine that the whole or any just proportion of the compensation awarded by the jury shall be assessed upon the owners or occupants of real estate deemed to be thus benefited, and thereupon they shall, by resolution, fix and determine the district or portion of the city benefited, and specify the amount to be assessed upon the owners or occupants of the taxable real estate therein. The amount of the benefit thus ascertained shall be assessed upon the owners or occupants of such taxable real estate, in proportion, as nearly as may be, to the advantage which such lot, parcel or subdivision is deemed to acquire by the improvement. The assessment shall be made and the amount levied and collected in the same manner and by the same officers and proceedings, as near as may be, as is provided in this act for assessing, levying and collecting the expense of a public improvement when a street is graded. The assessment roll containing said assessments, when ratified and confirmed by the council, shall be final and conclusive and prima facie evidence of the regularity and legality of all proceedings prior thereto, and the assessment therein contained shall be a lien on the premises on which the same is made until payment thereof. Whatever amount or portion of such awarded compensation shall not be raised in the manner herein provided shall be assessed, levied and collected upon the taxable real estate of the municipality, the same as other general taxes are assessed and collected therein. At any sale which takes place of the assessed premises or any portion thereof delinquent for nonpayment of the amount assessed and levied thereon, the city may become a purchaser.

HISTORY: CL 1915, 3159;—CL 1929, 2083;—CL 1948, 105.24.

105.25 Verdict confirmed; sums awarded; payment within year; raising of funds; treasurer, duties; right of entry; writ of assistance.

Sec. 25. Within 1 year after the confirmation of the verdict of the jury, or after the judgment of confirmation shall on appeal be confirmed, the council shall set apart and cause to be provided in the treasury, unless already provided, the amount required to make compensation to the owners and persons interested, for the private property taken, as awarded by the jury, and shall, in the resolution setting apart and providing said sum, if not already provided, direct the city to pay the persons respectively entitled to the money so set apart and provided, to each his or her portion, as ascertained and awarded by said verdict. And it shall be the duty of the treasurer to securely hold such money in the treasury for the purpose of paying for the property taken, and pay the same to the persons entitled thereto, according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever. The council may provide the necessary amount by borrowing from any other money or fund in the treasury and repay the same from money raised to pay the compensation awarded by the jury when collected or otherwise, as they may provide. Whenever the necessary sum is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates, verified by his oath, showing that the amount of compensation

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awarded by the jury is actually in the treasury for payment of the private property taken in the case, giving the title of the case; he shall cause 1 of the certificates to be filed in the office of the probate court before whom such proceedings were had, or his successor, or in case an appeal has been had, then in the office of the clerk of the court in which the proceedings were had, and the other to be filed with the city clerk, which certificate shall be prima facie evidence of the matters therein stated. Whenever the amount of such compensation is in the treasury and thus secured to be paid, the council may enter upon and take possession of and use such private property for the purposes for which it was taken, and may remove all buildings, fences and other obstructions therefrom. In case of resistance or refusal on the part of any one to the council or their agents and servants entering upon and taking possession of such private property for the use and purpose for which it was taken, at any time after the amount of the compensation aforesaid is actually in the treasury, ready to be paid to those entitled thereto, the council, by the city attorney, may apply to the court, and shall be entitled, on making a sufficient showing, to a writ of assistance to put them in possession of the property.

HISTORY: CL 1915, 3160;—CL 1929, 2084;—CL 1948, 105.25.

105.26 Court proceedings; officers, jurors, witnesses; fees, compensation.

Sec. 26. Officers, jurors and witnesses in any proceedings under this chapter shall be entitled to receive the same fees and compensation as are provided by law for similar services in an ordinary action at law in the probate courts of this state, and in cases of appeals, the same fees and compensation as are provided by law for similar services in circuit courts.

HISTORY: CL 1915, 3161;—CL 1929, 2085;—CL 1948, 105.26.

WITNESSES: See notes to Compilers' § 73.33.

105.27 Property; ownership; prima facie evidence.

Sec. 27. It shall be prima facie evidence as to who are owners of, and persons interested in, any property proposed to be taken in the proceedings instituted under this act, if the register or deputy register of deeds of the county shall testify in open court that he has examined the records and titles of his office, and states who such records show are the owners of, and persons interested in such property, and the nature and extent of such ownership and interest; and an abstract of the title of such property, or of any parcel or parcels thereof, certified by the register or deputy register of deeds shall also be prima facie evidence as to ownership, and persons having an interest in any such property, and the extent and nature of such interest.

HISTORY: CL 1915, 3162;—CL 1929, 2086;—CL 1948, 105.27.

105.28 Property; sale of buildings; moneys, disposition.

Sec. 28. In case there is on the private property taken a building or other structure, the same shall be sold by or under direction of the council; the amount produced by this sale shall belong and be paid to the fund for paying the compensation awarded for the property taken, and the council shall cause such amount to be credited and applied in reduction pro rata of the assessment and apportionment made to pay for the property taken.

HISTORY: CL 1915, 3163;—CL 1929, 2087;—CL 1948, 105.28.

105.29 Property; negotiation; purchase.

Sec. 29. Nothing in this chapter contained shall prevent any city from obtaining private property for any of the public uses herein specified by negotiation and purchase.

HISTORY: CL 1915, 3164;—CL 1929, 2088;—CL 1948, 105.29.

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CHAPTER XXVI—WATER-WORKS

106.1 City waterworks; uses.
106.2 Types of waterworks; construction; maintenance.
106.3 Establishing waterworks; borrowing power of cities; bonds, issuance.
106.4 Establishing waterworks; cost estimates; vote by electors; repairs, limitation.
106.5 Water pipes; private connections; repairs at owner's expense; permit.
106.6 Establishing of water rates; annual, approval of city council; furnishing of water outside corporate limits.
106.7 Establishing waterworks; care, control ordinances.
106.8 Establishing waterworks; property beyond corporate limits, control.
106.9 Establishing waterworks; construction privileges, duties.
106.10 Establishing waterworks; condemnation of private property.
106.11 Contract for water supply; time limitation; privileges extended to company.

106.1 City waterworks; uses.

Sec. 1. Any city incorporated or re-incorporated under the provisions of this act shall have authority to purchase or construct new and to maintain and extend existing waterworks for the introduction of water into such city, and supplying the same and the inhabitants thereof with pure and wholesome water for the ordinary and extraordinary uses of the inhabitants thereof, the extinguishment of fires and for such other purposes as the council may prescribe.

HISTORY: CL 1897, 3247;—CL 1915, 3165;—CL 1929, 2089;—CL 1948, 106.1.

SANITATION: Supervision and regulation by department of health, see Compilers' § 325.201 et seq.

WATER SUPPLY: See Act 5 of 1870, being Compilers' § 123.111 et seq.

Power to furnish outside territorial limits, see Act 34 of 1917, being Compilers' § 123.141 et seq.

VALIDATION OF BONDS: For filtration plants and water extension mains, see Act 3, 1911, being CL 1929, 2441-2442; for waterworks, see Act 32, 1911, being CL 1929, 2443-2444; omitted from this compilation.

106.2 Types of waterworks; construction; maintenance.

Sec. 2. Such city may acquire, purchase, erect and maintain such reservoirs, canals, aqueducts, sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes and other apparatus, appurtenances and machinery, and may acquire, purchase, appropriate and own such grounds, real estate, rights and privileges as may be necessary and proper for the securing, construction and maintenance of such waterworks.

HISTORY: CL 1897, 3248;—CL 1915, 3166;—CL 1929, 2090;—CL 1948, 106.2.

106.3 Establishing waterworks; borrowing power of cities; bonds, issuance.

Sec. 3. It shall be lawful for any such city, subject to the provisions of this act, to borrow money to be used exclusively for the purpose of purchasing, constructing or extending waterworks, as provided in the 2 preceding sections. The council shall have the power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and to issue bonds of the city therefor, but the rate of such interest shall not exceed 6% per annum, and such bonds shall not be sold for less than their par value. The total amount expended for constructing, purchasing or extending such waterworks shall not exceed the estimate of expense provided for in section 4 of this chapter.

HISTORY: CL 1897, 3249;—CL 1915, 3167;—CL 1929, 2091;—CL 1948, 106.3;—Am. 1969, p. 173, Act 88, Eff. Mar. 20, 1970.

MUNICIPAL OBLIGATIONS: See Act 202 of 1943, being Compilers' § 131.1 et seq.

106.4 Establishing waterworks; cost estimates; vote by electors; repairs, limitation.

Sec. 4. Before any money shall be borrowed, appropriated, raised or expended for the purchase, construction or extension of waterworks in any city, the council shall direct the board of public works to cause to be made an estimate of the expense thereof, and the question of raising the amount required for such purpose shall be submitted to the electors of the city at its next annual election or at a special election called for that purpose by the council as provided in this act, and shall be determined as a majority of

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the electors voting at such election by ballot shall decide. After waterworks have been purchased or constructed by such city the council may then raise and expend, in making repairs or alterations, or in extending such works, such sum as they may see fit, without submitting the question to the electors of the city, but the sum to be raised for such purpose shall be included in and shall not increase the total amount which, by the provisions of section 5, chapter 30 of this act, the council is authorized to raise.

HISTORY: CL 1897, 3250;—CL 1915, 3168;—CL 1929, 2092;—CL 1948, 106.4;—Am. 1969, p. 173, Act 88, Eff. Mar. 20, 1970.

NOTE: Sec. 5, Ch. 30, above referred to, is Compilers' § 110.5. For regulations regarding issuance and payment of bonds, see Act 202 of 1943, being Compilers' § 131.1 et seq.

106.5 Water pipes; private connections; repairs at owner's expense; permit.

Sec. 5. The connecting or supplying pipes leading from buildings or yards to the distributing pipes shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from the board of public works. All such connecting or supplying pipes shall be constructed and connected in the manner prescribed by such board.

HISTORY: CL 1897, 3251;—CL 1915, 3169;—CL 1929, 2093;—CL 1948, 106.5.

106.6 Establishing of water rates; annual, approval of city council; furnishing of water outside corporate limits.

Sec. 6. The board of public works shall annually, on or before the first Monday in June, establish a scale of rates to be charged and paid for supply of water for the year next ensuing, to be called water rates, which rates shall be approved by the council and shall be appropriate to different classes of buildings in the city, with reference to their dimensions, value, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns and all other buildings, establishments and trades, yards, number of families or occupants or consumption of water, as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rates.

The board of public works, with the approval of the council, is hereby authorized to enter into any contract or contracts for the sale and delivery of water without the corporate limits of the city to an amount not to exceed 25 per cent of the water furnished by said board within the corporate limits of the city. Said board is hereby authorized to prescribe such terms and conditions in any such contract as shall be agreed upon.

HISTORY: CL 1897, 3252;—CL 1915, 3170;—CL 1929, 2094;—Am. 1935, p. 331, Act 204, Eff. Sept. 21;—CL 1948, 106.6.

RATES: See Compilers' § 108.9.

106.7 Establishing waterworks; care, control ordinances.

Sec. 7. The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of the waterworks and all the fixtures, appurtenances, apparatus, buildings and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter and the powers herein conferred in respect to the construction, management and control of such waterworks.

HISTORY: CL 1897, 3253;—CL 1915, 3171;—CL 1929, 2095;—CL 1948, 106.7.

106.8 Establishing waterworks; property beyond corporate limits, control.

Sec. 8. When the council shall deem it for the public interest, such waterworks may be purchased, or may be constructed and maintained beyond the corporate limits of the city, and in such case the council shall have authority to enforce beyond the corporate limits of the city, within the county or counties in which such city is situated and over the buildings, machinery and other property belonging to and connected with such waterworks, in the same manner and to the same extent as if they, or it, were

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within the city, all such ordinances and police regulations as may be necessary for the care, protection, preservation, management and control thereof.

HISTORY: CL 1897, 3254;—CL 1915, 3172;—CL 1929, 2096;—CL 1948, 106.8.

106.9 Establishing waterworks; construction privileges, duties.

Sec. 9. For the purpose of operating, constructing, maintaining or extending such waterworks, the city shall have the right to lay conduits, pipes, aqueducts or other necessary works over or under any watercourse, or under and along any street, alley, lane, turnpike, road, railroad or highway within such city, but not in such manner as to obstruct the same or impede or prevent travel thereon; and the city authorities may at all times enter upon and dig up such street, alley, road or highway to lay pipes thereon, or to construct works beneath the surface thereof, but they shall cause the surface of such street, alley, road or highway to be relaid and restored to its usual state, and any damage done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes upon like conditions.

HISTORY: CL 1897, 3255;—CL 1915, 3173;—CL 1929, 2097;—CL 1948, 106.9.

106.10 Establishing waterworks; condemnation of private property.

Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property either within or without the city for the construction and maintenance or for the due operation of waterworks, the right to occupy and hold the same, and the ownership therein and thereto may be acquired by the city in the manner and with like effect as provided in this act for the taking of private property for public use.

HISTORY: CL 1897, 3256;—CL 1915, 3174;—CL 1929, 2098;—CL 1948, 106.10.

CONDEMNATION: Provisions for taking private property, above referred to, see Compilers' § 105.1 et seq.

106.11 Contract for water supply; time limitation; privileges extended to company.

Sec. 11. The council may contract from year to year, or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such city and the inhabitants thereof with water upon such terms and conditions as may be agreed, and may grant to such person, persons or corporation the right to the use of the streets, alleys, wharves and public grounds of such city as shall be necessary to enable such person, persons or corporation to construct and operate proper works for the supply of water for the use of such city and the inhabitants thereof upon such terms and conditions as shall be specified in such contracts.

HISTORY: CL 1897, 3257;—CL 1915, 3175;—CL 1929, 2099;—CL 1948, 106.11.

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CHAPTER XXVII—LIGHTING.

107.1 City lighting plant.
107.2 City lighting plant; resolution of necessity; action of council.
107.3 City lighting plant; expense estimates; vote by electors.
107.4 City lighting plant; borrowing power, limit; manner of payment.
107.5 City lighting plant; repairs, limit.
107.6 City lighting plant; lighting rates, annual determination.
107.7 City lighting plant; condemnation of private property.
107.8 Contract for lighting; time limitation; privileges extended to company.
107.9 City lighting plant; care and control ordinances.
107.10 Lighting; repairs, payment out of net revenues, saving clause; title retaining contract, approval by municipal finance commission.

107.1 City lighting plant.

Sec. 1. It shall be lawful for any city incorporated or re-incorporated under the provisions of this act to acquire by purchase or to construct, operate and maintain either independently or in connection with the waterworks of such city, either within or without the city, works for the purpose of supplying such city and the inhabitants thereof, or either, with gas, electric or other lights at such times and on such terms and conditions as hereinafter provided.

HISTORY: CL 1897, 3258;—CL 1915, 3176;—CL 1929, 2100;—CL 1948, 107.1.

POWER OF DISPOSAL OF PLANT: See Act 261 of 1925, being Compilers' § 123.81 et seq.

107.2 City lighting plant; resolution of necessity; action of council.

Sec. 2. Whenever the council of any city shall by resolution declare that it is expedient for such city to acquire by purchase, or to construct, as the case may be, works for the purpose of supplying such city and the inhabitants thereof, or either, with gas, electric or other lights, then such council shall have power to take such action as shall be deemed expedient to accomplish such purpose.

HISTORY: CL 1897, 3259;—CL 1915, 3177;—CL 1929, 2101;—CL 1948, 107.2.

107.3 City lighting plant; expense estimates; vote by electors.

Sec. 3. In case the council shall declare that it is expedient for such city to acquire by purchase or to construct, as the case may be, works for the purpose of supplying such city and the inhabitants thereof, or either, with electric or other lights, then the council shall direct the board of public works to cause to be made and recorded in their proceedings an estimate of the expense thereof, and the question of raising the amount required for such purpose shall be submitted to the electors of the city at its annual election, or at a special election called for that purpose by the council, as provided in this act, and shall be determined as 2/3 of the electors voting at such election by ballot shall decide.

HISTORY: CL 1897, 3260;—CL 1915, 3178;—CL 1929, 2102;—CL 1948, 107.3.

ELECTIONS: For provisions above referred to, see Compilers' § 86.1 et seq.

107.4 City lighting plant; borrowing power, limit; manner of payment.

Sec. 4. It shall be lawful for any such city to borrow any sum of money not exceeding 5 per cent of the assessed value of the property in said city as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing or constructing and maintaining such lighting works as provided in the preceding sections of this chapter. The council shall have power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and to issue bonds of the city therefor, but the rate of such interest shall not exceed 6 per cent per annum, and such bonds shall not be sold for less than their par value: Pro-

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vided, That the total amount expended for the purchase or construction of such lighting works shall not exceed the amount of the estimate of expense thereof provided for in section 3 of this chapter.

HISTORY: CL 1897, 3261;—CL 1915, 3179;—CL 1929, 2103;—CL 1948, 107.4.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

107.5 City lighting plant; repairs, limit.

Sec. 5. After lighting works have been purchased or constructed as aforesaid in such city, the council may then raise and expend in making repairs or alterations or in extending such works such sum as it may deem advisable without submitting the question to the electors of the city; but the sum to be so raised in any 1 year shall be included in, and shall not increase the total amount which, by the provisions of section 5 of chapter 30 of this act, the council is authorized to raise.

HISTORY: CL 1897, 3262;—CL 1915, 3180;—CL 1929, 2104;—CL 1948, 107.5.

NOTE: Sec. 5, Ch. XXX, above referred to, is Compilers' § 110.5.

107.6 City lighting plant; lighting rates, annual determination.

Sec. 6. The board of public works subject to the approval of the council shall have the power to fix such just and equitable rates as may be deemed advisable for supplying the inhabitants of said city with lights, and shall annually on the first Monday in June fix such rates for the year next ensuing.

HISTORY: CL 1897, 3263;—CL 1915, 3181;—CL 1929, 2105;—CL 1948, 107.6.

107.7 City lighting plant; condemnation of private property.

Sec. 7. If it shall be necessary in the judgment of the council to appropriate private property either within or without the city for the construction and maintenance or for the due operation of lighting works, the right to occupy and hold the same and the ownership therein and thereto may be acquired by the city in the manner and with like effect as provided in this act for the taking of private property for public use.

HISTORY: CL 1897, 3264;—CL 1915, 3182;—CL 1929, 2106;—CL 1948, 107.7.

CONDEMNATION: Appropriating private property, above referred to, see Compilers' § 105.1 et seq.

107.8 Contract for lighting; time limitation; privileges extended to company.

Sec. 8. The council may contract from year to year or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such city or the inhabitants thereof, or both, with gas, electric or other lights upon such terms and conditions as may be agreed; and may grant to such person, persons or corporation the right to the use of the streets, alleys, wharves and public grounds of such city as shall be necessary to enable such person, persons or corporation to construct and operate proper works for the supplying of such light upon such terms and conditions as shall be specified in such contract.

HISTORY: CL 1897, 3265;—CL 1915, 3183;—CL 1929, 2107;—CL 1948, 107.8.

107.9 City lighting plant; care and control ordinances.

Sec. 9. The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of the lighting works and all the fixtures, appurtenances, apparatus, buildings and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the erection, purchase, management and control of such works.

HISTORY: CL 1897, 3266;—CL 1915, 3184;—CL 1929, 2108;—CL 1948, 107.9.

107.10 Lighting; repairs, payment out of net revenues, saving clause; title retaining contract, approval by municipal finance commission.

Sec. 10. Repairs, alterations and extensions may also be provided by the city council by contract for the making and installation thereof, which shall not impose a general

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obligation on the city, but may provide for payment therefor out of such net revenues, after payment of obligations due, provision for payment of obligations to become due, and payment of legitimate and necessary operating and other expenses thereof, as shall become available from the operation of such works after completion of such repairs, alterations or extensions and for retention of title to materials furnished in the seller until paid for in full: Provided, That no contract made pursuant to this section shall be so construed as to deprive the people of the city of any right vested in them by the constitution or the laws of this state, or be so construed as to constitute the granting of any franchise or its operating equivalent, or to convey title to property to any person not possessed of such title prior to the execution of such title retaining contract: And provided further, That said title retaining contract be approved by the municipal finance commission prior to the execution thereof. The municipal finance commission shall determine their approval or disapproval upon the following factors: (a) whether such contract conforms to the provisions of this act; (b) whether after payment of legitimate and necessary operating and other expenses, and payments due or to become due on any existing obligations, the probable revenues pledged to the payment of such contract will be sufficient to pay the principal and interest on such contract when due; and (c) whether the cost of the repairs, alterations or extensions to be paid by such contract are excessive.

HISTORY: Add. 1954, p. 138, Act 110, Eff. Aug. 13.

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CHAPTER XXVIII—BOARD OF PUBLIC WORKS.

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Sewerage System.
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108.11 Board abolished; procedure.
108.12 Board abolished; powers and duties transferred to council; committee established.
108.13 Board abolished; re-establishment procedure.
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108.1 Board of public works; members, appointment, terms.

Sec. 1. There may be created and constituted in every city, subject to the provisions of this act, a board of public works composed of 5 members, who shall be freeholders and electors of the city and shall serve without compensation. Such board shall, as near as may be, be non-partisan, no more than 3 members to be appointed from 1 political party, and shall be appointed by the mayor, by and with the consent of the council. One member shall be appointed for the term of 1 year, 1 member for the term of 2 years, 1 member for the term of 3 years, 1 member for the term of 4 years, and 1 member for the term of 5 years from the first Monday of May next thereafter, and on the 1st Monday of May of each year thereafter, 1 member shall be appointed for the term of 5 years, unless otherwise provided in this act: Provided, That it shall not be necessary for any city having a board of public works organized under the provisions of this act to reconstruct such board, but the existing board of public works shall continue unless abolished under the provisions of sections 11 and 12 of this act.

HISTORY: CL 1897, 3267;—Am. 1899, p. 201, Act 136, Imd. Eff. June 21;—CL 1915, 3185;—Am. 1921, p. 527, Act 282; Eff. Aug. 18;—CL 1929, 2109;—CL 1948, 108.1.

NOTE: Secs. 11 and 12, above referred to, are Compilers' §§ 108.11, 108.12.

108.2 Board of public works; officers, election, duties; quorum.

Sec. 2. Said board shall, within 10 days after their first appointment and annually thereafter during the month of May, organize and elect 1 of their number president. A majority of the board shall constitute a quorum for the transaction of business. The city clerk shall be ex officio clerk of said board, but shall have no vote therein. It shall be his duty to perform all the clerical labor required by said board, and he shall have charge of all its books, records, accounts and papers.

HISTORY: CL 1897, 3268;—CL 1915, 3186;—CL 1929, 2110;—CL 1948, 108.2.

108.3 Board of public works; powers and duties.

Sec. 3. The said board of public works, subject to the direction of the council, is hereby charged and entrusted with the following duties, powers and responsibilities:

Water-works.

First, The construction, management, supervision and control of such waterworks as are or shall be owned by the city.

Lighting Plant.

Second, The construction, management, supervision and control of such electric or other lighting plants as are or shall be owned by the city.

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Sewerage system.

Third, The management and supervision of the sewers, sewerage system and drainage of such city and of the construction thereof.

Other works.

Fourth, Such other public improvements or works as the common council may by ordinance place under their management, supervision and control.

HISTORY: CL 1897, 3269;—CL 1915, 3187;—CL 1929, 2111;—CL 1948, 108.3.

108.4 Board of public works; rules, by-laws, regulations.

Sec. 4. The said board shall have power to make and adopt all such by-laws, rules and regulations as they may deem necessary and expedient for the transaction of their business, not inconsistent with the ordinances of the city or the provisions of this act.

HISTORY: CL 1897, 3270;—CL 1915, 3188;—CL 1929, 2112;—CL 1948, 108.4.

108.5 Board of public works; letting contracts, conditions.

Sec. 5. Whenever the expense of constructing or repairing any public work placed under the control of the board of public works shall not exceed the sum of 200 dollars, the work shall be done by such board in such manner as they may deem proper; but whenever such expense shall exceed the sum of 200 dollars, then the said board shall submit the plans, diagrams, profiles and estimates thereof to the council for their approval, and when so approved the board shall, subject to the approval of the council, cause such work to be done by contract or otherwise in such manner as they may deem proper: Provided, That if the expense shall exceed the sum of 500 dollars, the board shall advertise for sealed proposals, and shall give such notice as the council may direct, and shall let the contract to the lowest responsible bidder who shall be deemed competent to do the work and give adequate security for the performance thereof, which contract and security shall be approved by the council.

HISTORY: CL 1897, 3271;—CL 1915, 3189;—CL 1929, 2113;—CL 1948, 108.5.

108.6 Work done by board of public works; reports to council, contents; payment of claims.

Sec. 6. All work done under the supervision of said board shall be reported to the council from time to time, and no money shall be paid out of the treasury on account of any work so done until the council shall have authorized the same and ordered the same paid by warrant drawn on the city treasurer, and all claims or accounts against the city that in any manner relate to the works in charge of such board or that have been incurred by such board shall first be submitted to and approved by the said board of public works before the council shall be authorized to order such warrant drawn. It shall be the duty of the board to make an annual report to the council on the third Monday in April of each year, which report shall embrace an itemized statement of the revenues and the expenditures relating to or connected with each of the works under their control, keeping a separate account of each fund, and a statement of the condition, progress and operation of said works. They shall also make such other reports and furnish such other information to the council as that body shall by resolution or ordinance provide.

HISTORY: CL 1897, 3272;—CL 1915, 3190;—CL 1929, 2114;—CL 1948, 108.6.

108.7 Reports to council; expense estimate submitted to council, time.

Sec. 7. On or before the first Monday of September, or on or before the first Monday of May in each year where the council has decided to have the taxes levied and collected in 2 installments as authorized in section 2 of chapter 30, the board of public works shall submit to the common council careful estimates in detail of the amount of money, which, according to the judgment of the board, will be needed for the waterworks fund, the light fund and the sewer fund during the ensuing year, which esti-

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mates may be increased, modified or adopted by the said common council as in its judgment may seem justifiable.

HISTORY: Am. 1897, p. 322, Act 239, Imd. Eff. June 2;—CL 1897, 3273;—CL 1915, 3191;—CL 1929, 2115;—CL 1948, 108.7.

NOTE: Sec. 2, Ch. 30, above referred to, is Compilers' § 110.2.

108.8 Moneys received; disposition; statement, filing.

Sec. 8. The board of public works shall on the first Monday of each month pay into the city treasury to the credit of the water, light, sewer or other fund, as the case may be, all moneys received by them and belonging to any such fund, and shall file a detailed statement thereof, together with the receipt of the treasurer attached thereto, with the city clerk, who shall report the filing of such statement and receipt to the council.

HISTORY: CL 1897, 3274;—CL 1915, 3192;—CL 1929, 2116;—CL 1948, 108.8.

108.9 Rate charges, payment; suit.

Sec. 9. The board of public works may provide when and to whom all water and light rates, and other moneys collectible by them shall be paid, and what steps shall be taken to enforce payment thereof, and may provide in case of non-payment that such water, light or sewerage connection be shut off or stopped as to any person neglecting or refusing to make such payment; and may also collect the same in an action of assumpsit on the common counts in any court of competent jurisdiction.

HISTORY: CL 1897, 3275;—CL 1915, 3193;—CL 1929, 2117;—CL 1948, 108.9.

As to water rates, see Compilers' § 106.6.

108.10 Board of public works; employment of operating personnel; appointment, compensation.

Sec. 10. The board of public works is hereby empowered, subject to the approval of the council, to employ all necessary officers, agents and employes that they may deem necessary to operate, carry on and improve all the public works and duties placed under their care and supervision, and subject to the approval of the council, to fix the salaries and compensation of such employes.

HISTORY: CL 1897, 3276;—CL 1915, 3194;—CL 1929, 2118;—CL 1948, 108.10.

108.11 Board abolished; procedure.

Sec. 11. The council of every city subject to the provisions of this act and the acts to which this act is amendatory, upon petition to them of 50 or more freeholders of such city praying that an election of the qualified voters of such city be called to determine whether the board of public works in such city shall be abolished, shall, by resolution, submit the question of abolishing such board of public works to the qualified electors of such city at the city election held in the month of April next following. The board of public works in such city shall not be abolished unless a majority of the electors voting on such proposition shall by ballot so determine.

HISTORY: Add. 1899, p. 202, Act 136, Imd. Eff. June 21;—CL 1915, 3195;—Am. 1921, p. 527, Act 282, Eff. Aug. 18;—CL 1929, 2119;—CL 1948, 108.11.

108.12 Board abolished; powers and duties transferred to council; committee established.

Sec. 12. If at any such election, a majority of the electors voting thereon shall vote to abolish the board of public works in such city, then such board of public works shall be abolished, and all the powers, rights and privileges now exercised by or vested in said board of public works, as well as all duties and obligations imposed upon such board of public works by this act and the act of which this is amendatory, shall be vested in, exercised and assumed by the council of such city; the board of public works in such city in all things appertaining to them as such board, shall be superseded by the council, and the council may appoint a committee of its own members more parti-

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cularly to perform these duties, always under the direction of the council and subject to such rules and regulations as the council may determine.

HISTORY: Add. 1899, p. 202, Act 136, Imd. Eff. June 21;—CL 1915, 3196;—Am. 1921, p. 527, Act 282, Eff. Aug. 18;—CL 1929, 2120;—CL 1948, 108.12.

108.13 Board abolished; re-establishment procedure.

Sec. 13. In any city subject to the provisions of this act, and in which the board of public works has been abolished as above provided, the council, on petition to them of 100 freeholders of said city praying for the re-establishment of the board of public works therein, shall, by resolution, submit to the qualified electors of such city at the city election held in the month of April next following the proposition to re-establish such board of public works. If 2/3 of the electors voting on such proposition vote in favor of such board of public works, then such board of public works shall thereafter be re-established in such city and shall be constituted and selected in the same way and have the same qualifications, powers and duties provided for boards of public works in the act of which this act is amendatory.

HISTORY: Add. 1899, p. 202, Act 136, Imd. Eff. June 21;—CL 1915, 3197;—CL 1929, 2121;—CL 1948, 108.13.

108.14 Election of board; time, notice; form of proposition.

Sec. 14. An election under the provisions of this chapter cannot be held oftener than once in 2 years and notice of such election shall be given in the same manner and for the same length of time as is provided in the charter of such city for the calling special elections, and the vote shall be counted and canvassed and the return shall be made, and the result declared and determined in the same manner as is provided in such charter for the counting, canvassing and returning of votes, and the determining of the result thereof at special elections, and the propositions submitted shall be in the following language:

For the board of public works—Yes ☐
For the board of public works—No ☐

HISTORY: Add. 1899, p. 202, Act 136, Imd. Eff. June 21;—CL 1915, 3198;—CL 1929, 2122;—CL 1948, 108.14.
ELECTIONS: See Compilers' § 86.1 et seq.

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CHAPTER XXIX—FIRE DEPARTMENT.

109.1 Fire protection; ordinances and regulations; fire department, establishment.
109.2 Fire equipment; water supply.
109.3 Fire houses.
109.4 Fire chief; duties; assistants.
109.5 Fire chief; power to command aid at fire; refusal, penalty.
109.6 Fire wardens; appointment, duties.
109.7 Fire ordinances; limits on wooden structures, construction, regulation; escapes.
109.8 Trades within certain districts prohibited; combustibles, regulation.
109.9 Prohibited structure; nuisance, abatement.
109.10 Fire department employes; compensation; jury exemption; injuries.
109.11 Destruction of buildings at fires; damages, settlement; jury trial.
109.12 Harbor fire ordinances.

109.1 Fire protection; ordinances and regulations; fire department, establishment.

Sec. 1. The council of any city shall have power to enact such ordinances and establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires, and to protect the property and persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department; to organize and maintain fire companies; to employ and appoint firemen; to make and establish rules and regulations for the government of the department, the employes, firemen and officers thereof; and for the care and management of the engines, apparatus, property and buildings pertaining to the department; and prescribing the powers and duties of such employes, firemen and officers.

HISTORY: CL 1897, 3277;—CL 1915, 3199;—CL 1929, 2123;—CL 1948, 109.1.

FIRE PREVENTION: State fire marshal act, see Compilers' § 29.1 et seq.

109.2 Fire equipment; water supply.

Sec. 2. The council may purchase and provide suitable fire engines and such other apparatus, instruments and means for the use of the department as may be deemed necessary for the extinguishment of fires; and may sink wells and construct cisterns and reservoirs in the streets, public grounds and other suitable places in the city; and make all necessary provisions for a convenient supply of water for the use of the department.

HISTORY: CL 1897, 3278;—CL 1915, 3200;—CL 1929, 2124;—CL 1948, 109.2.

109.3 Fire houses.

Sec. 3. The council may also provide or erect all necessary and suitable buildings for keeping the engines, carriages, teams and fire apparatus of the department.

HISTORY: CL 1897, 3279;—CL 1915, 3201;—CL 1929, 2125;—CL 1948, 109.3.

109.4 Fire chief; duties; assistants.

Sec. 4. The engineer of the fire department shall be the chief of the department, and, subject to the direction of the mayor, shall have the supervision and direction of the department and the care and management of the fire engines, apparatus and property, subject to such rules and regulations as the council may prescribe. And the council may appoint such assistant engineers and other officers of the department as may be necessary.

HISTORY: CL 1897, 3280;—CL 1915, 3202;—CL 1929, 2126;—CL 1948, 109.4.

109.5 Fire chief; power to command aid at fire; refusal, penalty.

Sec. 5. The chief of the fire department or other officer acting as such may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of property thereat. If any person shall wilfully disobey any such lawful

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requirement or other lawful order of any such officer he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a period not exceeding 90 days, or by a fine not exceeding 100 dollars, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1897, 3281;—CL 1915, 3203;—CL 1929, 2127;—CL 1948, 109.5.

109.6 Fire wardens; appointment, duties.

Sec. 6. The council may provide by ordinance for the appointment of, and may appoint, such number of fire wardens as may be deemed necessary; and for the examination by them, from time to time, of the stoves, furnaces and heating apparatus and devices in all the dwellings, buildings and structures within the city; and in all places where combustible or explosive substances are kept; and to cause all such as are unsafe with respect to fire to be put in a safe condition.

HISTORY: CL 1897, 3282;—CL 1915, 3204;—CL 1929, 2128;—CL 1948, 109.6.

109.7 Fire ordinances; limits on wooden structures, construction, regulation; escapes.

Sec. 7. The council may prescribe by ordinance, from time to time, limits of districts within the city within which wooden buildings and structures shall not be erected, placed, enlarged or repaired; and to direct the manner of constructing buildings within such districts, with respect to protection against fire and the material of which the outer walls and roofs shall be constructed. The council may provide by ordinance for proper fire escapes on buildings and compel the owners or occupants thereof to construct and maintain the same.

HISTORY: CL 1897, 3283;—CL 1915, 3205;—CL 1929, 2129;—CL 1948, 109.7.

109.8 Trades within certain districts prohibited; combustibles, regulation.

Sec. 8. The council may also prohibit within such places or districts as they shall deem expedient the location of shops; the prosecution of any trade or business; the keeping of lumber yards; and the storing of lumber, wood or other easily inflammable material in open places, when, in the opinion of the council, the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils and other combustible and explosive substances and the use of lights in buildings; and generally, may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires.

HISTORY: CL 1897, 3284;—CL 1915, 3206;—CL 1929, 2130;—CL 1948, 109.8.

109.9 Prohibited structure; nuisance, abatement.

Sec. 9. Every building or structure which may be erected, placed, enlarged, repaired or kept, in violation of any ordinance or regulation made for the prevention of fires, is hereby declared to be a nuisance, and may be abated or removed by the direction of the council.

HISTORY: CL 1897, 3285;—CL 1915, 3207;—CL 1929, 2131;—CL 1948, 109.9.

109.10 Fire department employes; compensation; jury exemption; injuries.

Sec. 10. The officers, firemen and employes of the department shall receive such compensation as the council may prescribe; and during their term of service shall be exempt from serving on juries. The council may provide suitable compensation for any injury which any fireman may receive to his person or property in consequence of the performance of his duty at any fire.

HISTORY: CL 1897, 3286;—CL 1915, 3208;—CL 1929, 2132;—CL 1948, 109.10.

109.11 Destruction of buildings at fires; damages, settlement; jury trial.

Sec. 11. The engineer in charge of the department at any fire, with the concurrence of the mayor or any 2 aldermen, may cause any building to be pulled down or destroyed, when deemed necessary, in order to arrest the progress of the fire. Whenever

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any building is so pulled down or destroyed, any person having an interest in such building may present his claim for damages to the council of such city, and it shall thereupon be the duty of the council to pay such claimant such damages as may be just under all the circumstances, taking into consideration the fact whether or not such loss would probably have occurred to such building if it had not been pulled down or destroyed and whether the same was insured or not. If the council and such claimant shall not be able to agree upon the amount of damages to be paid such claimant, then the amount of such damages shall be ascertained by the appraisal of a jury, to be selected in the same manner as in cases of juries to appraise damages for taking private property for public use. Such jury may visit the premises and hear all the proofs in the case, and shall allow such claimant such amount of damages as they may deem proper under all the circumstances, as above stated. If such jury shall not be able to agree, a new jury shall be impaneled, as above provided, until a jury has been obtained that shall agree; and the city shall pay such claimant the amount of damages fixed by such jury. There shall be no appeal from the verdict of such jury, either by the city or any claimant.

HISTORY: CL 1897, 3287;—CL 1915, 3209;—CL 1929, 2133;—CL 1948, 109.11.

JURY: Provisions above referred to, see Compilers' § 105.7 et seq.

109.12 Harbor fire ordinances.

Sec. 12. The council of any city located upon any of the navigable waters of the state may, by ordinance, prescribe such regulations to be observed by owners, masters and employes of steamboats and water craft as may be necessary for the prevention of fires in the harbor, and to prevent the communication of fire from such boats and craft; and may prescribe in such ordinances the manner of collecting any penalties imposed thereby.

HISTORY: CL 1897, 3288;—CL 1915, 3210;—CL 1929, 2134;—CL 1948, 109.12.

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CHAPTER XXX—FINANCE AND TAXATION.

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110.29 Bonds; terms of issuance; violation by officers, penalty.

110.1 Fiscal year.

Sec. 1. The fiscal year of cities subject to the provisions of this act shall commence on the first Monday of March in each year or when the council has decided to have the taxes collected in 2 installments as authorized by section 2 of chapter 30, the fiscal year shall commence on the first Monday of October of each year: Provided, That when the council shall so decide to collect the city taxes pursuant to said section 2 the next fiscal year shall continue to the first Monday of October.

HISTORY: Am. 1897, p. 322, Act 239, Imd. Eff. June 2;—CL 1897, 3289;—CL 1915, 3211;—CL 1929, 2135;—CL 1948, 110.1.

110.2 Council's power of taxation; collection; installments.

Sec. 2. The council of any such city shall have authority, within the limitations herein prescribed, to raise annually by taxation within the corporation such sum of money as may be necessary to defray the expenses and pay the liabilities of the city and to carry into effect the powers in this act granted.

The council of any such city shall have authority to provide by ordinance that the taxes in such city shall be levied and collected in 2 installments, 1 of which installments shall be for the general taxes, and which shall be assessed, levied and payable as provided in the general tax laws of this state, where not inconsistent with the provisions of this act; the other installment of which shall be for city taxes and shall be payable on the first day of July in each year.

HISTORY: Am. 1897, p. 322, Act 239, Imd. Eff. June 2;—CL 1897, 3290;—CL 1915, 3212;—CL 1929, 2136;—CL 1948, 110.2.

110.3 Tax money; division into funds.

Sec. 3. The revenues raised by general tax upon all the property in the city or by loan to be repaid by such tax shall be divided into so many of the following general funds as are necessary.

First, Contingent fund,—to defray the contingent and other expenses of the city for the payment of which from some other fund no provision is made;

Second, Fire department fund,—to defray the expenses of purchasing grounds, er-

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ecting engine houses thereon, purchasing engines and other fire apparatus, and all other expenses necessary to maintain the fire department of the city;

Third, General street fund,—to defray the expenses of opening, widening, extending, altering and vacating streets, alleys and public grounds, and for grading, paving, curbing, graveling and otherwise improving, repairing and clearing the streets, alleys and public grounds of the city, and for the construction and repair of sidewalks and cross-walks, and for the care thereof;

Fourth, General sewer fund,—to defray the expenses of sewers, drains, ditches and drainage, and the improvement of water-courses;

Fifth, Bridge fund,—for the construction and maintenance of bridges.

Sixth, Water fund,—for maintaining and extending a system of waterworks and for constructing reservoirs and cisterns, and providing other supplies of water.

Seventh, Public building fund,—for providing for public buildings, and for the purchase of lands therefor, and for the erection, preservation and repair of any such public buildings, city hall, offices, prisons, watch-houses and hospitals as the council is authorized to erect and maintain, and not herein otherwise provided for;

Eighth, Police fund,—for the maintenance of the police of the city, and to defray the expenses of the arrest and punishment of those violating the ordinances of the city;

Ninth, Cemetery fund;

Tenth, Interest and sinking fund,—for the payment of the public debt of the city and the interest thereon;

Eleventh, Park fund,—for the purchase of grounds for public parks and the maintenance and improvement thereof;

Twelfth, Light fund,—for the construction, purchase and maintenance of electric or other lights;

Thirteenth, Such other funds as the council may from time to time constitute.

HISTORY: CL 1897, 3291;—CL 1915, 3213;—CL 1929, 2137;—CL 1948, 110.3.

110.4 Tax money; special funds.

Sec. 4. Revenues and moneys raised by taxation in special districts of the city shall be divided into the following special funds:

Street district fund.

First, A street district fund for each street district,—for defraying the expenses of grading, improving, repairing and working upon the streets therein, and for the payment of all street expenses, which the council shall charge upon the street district;

Sewer district fund.

Second, A district sewer fund for each main sewer district,—for the payment of the costs and expenses of sewers and drainage in, and chargeable to the main sewer district, when the city shall be divided into such districts;

Special assessment fund.

Third, Special assessment funds; any money raised by special assessment levied in any special assessment district or special sewer district to defray the expenses of any work, paving, improvement, repairs or drainage therein shall constitute a special fund for the purpose for which it was raised.

HISTORY: CL 1897, 3292;—CL 1915, 3214;—CL 1929, 2138;—CL 1948, 110.4.

110.5 Taxes for general fund; limitation on council.

Sec. 5. The aggregate amount which the council may raise by general tax upon the taxable real and personal property in the city for the purpose of defraying the general expenses and liabilities of the corporation, and for all purposes for which the several general funds mentioned in section 3 of this chapter are constituted (exclusive of taxes

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for schools and school house purposes) shall not, except as herein otherwise provided, exceed in 1 year 1 ½%.

HISTORY: CL 1897, 3293;—CL 1915, 3215;—CL 1929, 2139;—CL 1948, 110.5;—Am. 1957, p. 86, Act 80, Eff. Sep. 27.

110.6 Tax raised in street district; purposes, limitation.

Sec. 6. The council may also raise by tax in each street district for defraying the expenses of working upon, improving and repairing and cleaning the streets of the district and for all purposes for which the street district fund above mentioned is constituted, a sum not exceeding in any 1 year 1/4 of 1 per cent on the assessed value of the taxable real and personal property in the district.

HISTORY: CL 1897, 3294;—CL 1915, 3216;—CL 1929, 2140;—CL 1948, 110.6.

110.7 Special assessments; purposes; local improvements, street and drain construction.

Sec. 7. In addition to the above amounts, the council may raise by special assessment in sewer districts and special assessment districts, for the purpose of grading, paving, curbing, graveling and otherwise improving the streets and for constructing sewers and drains and making other local improvements chargeable upon the lands and property in the district according to frontage or benefits and for all other purposes for which the main sewer funds and special assessment funds are constituted, such sums as they shall deem necessary.

HISTORY: CL 1897, 3295;—CL 1915, 3217;—CL 1929, 2141;—CL 1948, 110.7;—Am. 1969, p. 175, Act 89, Imd. Eff. Jul. 24.

110.8 Private sewer tax.

Sec. 8. A tax or assessment of not more than 2 dollars per year may be levied upon each lot or premises drained by a private sewer or drain leading into any public drain or sewer.

HISTORY: CL 1897, 3296;—CL 1915, 3218;—CL 1929, 2142;—CL 1948, 110.8.

110.9 Sinking fund; yearly tax limitation.

Sec. 9. The council may also raise such further sum annually, not exceeding 3 mills on the dollar, of the assessed valuation of the property in the city, as may be necessary to provide an interest and sinking fund to pay the funded debts of the city and the interest thereon.

HISTORY: CL 1897, 3297;—CL 1915, 3219;—CL 1929, 2143;—CL 1948, 110.9.

110.10 Expense estimates of council; time, contents.

Sec. 10. It shall be the duty of the council to cause estimates to be made in the month of September, or in the month of May in each year, where the council has decided to have the taxes levied and collected in 2 installments as authorized in section 2 of chapter 30 of this act, of all the expenditures which will be required to be made from the several general funds of the city during the next fiscal year, for the payment of interest and debts to fall due, or for lands to be acquired, buildings to be erected or repaired, bridges to be built and for the paving of streets, the construction of sewers, making improvements, and for the support of the police and fire departments, and for defraying the current expenses of the year, and for every other purpose for which any money will be required to be paid from any of the several general funds during such fiscal year; and also, to estimate the amounts that will be required to be expended from street district funds during said next fiscal year, in working upon, improving and repairing the streets in the several street districts of the city.

HISTORY: Am. 1897, p. 322, Act 239, Imd. Eff. June 2;—CL 1897, 3298;—CL 1915, 3220;—CL 1929, 2144;—CL 1948, 110.10.

NOTE: Sec. 2, Ch. 30, above referred to, is Compilers' § 110.2.

110.11 Expense estimate of council; deficiencies; installment levies.

Sec. 11. The council shall also in the same month determine upon the amount required to be raised in the next general tax levy to meet any deficiencies for the current

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year; also the amount or part of any special assessments which they required to be levied or reassessed in the next general tax rolls of the city, or upon the next city tax rolls of the city where the council have decided to have the taxes levied and collected in 2 installments as authorized in section 2 of chapter 30 of this act, upon lands in any main sewer, or special assessment district, or upon any parcel of land, or against any particular person as a special assessment.

HISTORY: Am. 1897, p. 323, Act 239, Imd. Eff. June 2;—CL 1897, 3299;—CL 1915, 3221;—CL 1929, 2145;—CL 1948, 110.11.
NOTE: Sec. 2, Ch. 30, above referred to, is Compilers' § 110.2.

110.12 Annual appropriation bill; purpose; contents.

Sec. 12. The council shall also in the said month of September, or in said month of May where the council has decided to have the taxes levied and paid in 2 installments as authorized in section 2 of chapter 30, pass an ordinance, to be termed the annual appropriation bill, in which they shall make provision for, and appropriate the several amounts required to defray the expenditures and liabilities of the corporation for the next fiscal year payable from the several general funds, and from the street district funds as estimated and determined upon, as provided in section 10 of this chapter, and order the same, or so much of such amounts as may be necessary, to be raised by tax with the next general tax levy, or with the city or July tax levy where the council has decided to have the taxes levied and collected in 2 installments, or by loans, or both, and to be paid into the several general funds and street district funds of the city; but the whole amount so ordered to be raised by tax or loan, or by both, shall not, except as herein otherwise provided, exceed the amount which the city is authorized by sections 5, 6 and 9 of this chapter, to raise by general tax during the year. The council shall specify in such ordinance the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose, and to each of the general funds and street district funds. The council shall also designate in the appropriation bill the sums, if any, required to be levied to meet any deficiency for the current year, and the amount or part of any special assessment, or other sum which they require to be levied or re-assessed as mentioned in section 11 of this chapter, and the disposition to be made of such moneys and shall also designate in said bill any local improvements which they may deem advisable to make during the next fiscal year to be paid for in whole or in part by special assessments, and the estimated cost thereof.

HISTORY: Am. 1897, p. 323, Act 239, Imd. Eff. June 2;—CL 1897, 3300;—CL 1915, 3222;—CL 1929, 2146;—CL 1948, 110.12.
NOTE: Sec. 2, Ch. 30, above referred to, is Compilers' § 110.2.

110.13 Taxes certified to board of supervisors and ward supervisors; manner.

Sec. 13. All sums ordered in the annual appropriation bill, in any year to be raised for the several general funds (except in cases where the council have decided to have the taxes levied and collected in 2 installments, in which case such sums shall, by the board of review and equalization provided in section 5 of chapter 30, be apportioned on or before the fifteenth day of May, among the several wards of the city according to their assessed valuation) and all amounts reported to the council by the board of education to be raised for schools, library and schoolhouse purposes, as provided in chapter 32 of this act, shall be certified to the clerk of the board of supervisors of the county on or before the first Monday of October. All sums ordered in said bill to be levied or [re-assessed] assessed in street or sewer districts or as special assessments, and in case there is to be a July tax roll for the collection of city taxes, all sums ordered in the annual appropriation bill apportioned as aforesaid, shall, forthwith, be certified by the city clerk to the supervisors of the respective wards as provided in chapter 24, and all such sums shall be levied and collected on such July or city tax roll. If, however, there be no July or city tax or if any part of the taxes assessed and levied on the July

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roll are not paid, such sums shall be levied and collected with the state and county taxes next thereafter to be levied within such city.

HISTORY: Am. 1897, p. 324, Act 239, Imd. Eff. June 2;—CL 1897, 3301;—CL 1915, 3223;—CL 1929, 2147;—CL 1948, 110.13.

NOTE: Sec. 5 of Ch. XXX, above referred to, is Compilers' § 110.5; Ch. XXXII is Compilers' repealed § 112.1 et seq.; Ch. XXIV is Compilers' § 104.1 et seq.

110.14 Annual appropriation bill; raising of moneys after passage prohibited.

Sec. 14. After the passage of the annual appropriation bill, no further sums shall be used, raised or appropriated; nor shall any further liability be incurred for any purpose, to be paid from any general fund or street district fund, during the fiscal year for which the appropriation was made, unless the proposition to make the appropriation shall be sanctioned by a 2/3 vote of the electors voting upon the proposition at the next annual city election or at any special election called for that purpose. But this section shall not prohibit the council from making any necessary repairs or expenditure at a cost not to exceed 5,000 dollars, the necessity for which is caused by casualty or accident, happening after making the annual appropriation for the year or such necessity arising from an existing, evident and impending danger, and from borrowing the money therefor.

HISTORY: CL 1897, 3302;—Am. 1899, p. 203, Act 136, Imd. Eff. June 21;—CL 1915, 3224;—CL 1929, 2148;—CL 1948, 110.14.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

ELECTIONS: See Compilers' § 86.1.

110.15 Improvements prohibited unless appropriation made; expenditures only from appropriations.

Sec. 15. No improvement, work, repairs or expense, to be paid for out of any general fund, or street district fund, excepting as herein otherwise provided, shall be ordered, commenced or contracted for, or incurred in any fiscal year, unless in pursuance of an appropriation specially made therefor, in the last preceding annual appropriation bill, nor shall any expenditure be made, or liability be incurred, in any such year, for any such work, improvement, repairs, or for any purpose, exceeding the appropriation so made therefor; nor shall any expenditure be made, or money be paid out of any general, or street district fund, for any purpose, unless appropriated for that purpose in said bill.

HISTORY: CL 1897, 3303;—CL 1915, 3225;—CL 1929, 2149;—CL 1948, 110.15.

110.16 Improvements financed by special assessments.

Sec. 16. Sections 14 and 15 of this chapter do not apply to appropriations, contracts, incurring of liabilities, expenditures and work in connection with any improvements financed by special assessments.

HISTORY: CL 1897, 3304;—Am. 1899, p. 203, Act 136, Imd. Eff. Jun. 21;—CL 1915, 3226;—CL 1929, 2150;—CL 1948, 110.16;—Am. 1969, p. 175, Act 89, Imd. Eff. Jul. 24.

110.17 Improvement before tax levy prohibited.

Sec. 17. No public work, improvement, or expenditure shall be commenced, nor any contract therefor be let or made, except as herein otherwise provided, until a tax or assessment shall have been levied to pay the cost and expense thereof, and no such work or improvement shall be paid for, or contracted to be paid for, except from the proceeds of the tax or assessment thus levied, or from the proceeds of bonds issued in anticipation of the collection of said tax.

HISTORY: CL 1897, 3305;—CL 1915, 3227;—CL 1929, 2151;—CL 1948, 110.17.

110.18 Money raised; tax, loan; aggregate limit.

Sec. 18. Instead of levying a tax for the whole amount authorized by this act to be raised in that manner in any year, for the purpose of the general and street district funds the council may, in its discretion, raise a part thereof by tax and a part thereof

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by loan: Provided, That the aggregate amount of taxes and loans so raised and made, shall not exceed the amount for which a tax might be levied for the same year.

HISTORY: CL 1897, 3306;—CL 1915, 3228;—CL 1929, 2152;—CL 1948, 110.18.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

110.19 Anticipatory loans; limit; bonds, issuance.

Sec. 19. The council or legislative body shall also have authority to raise moneys by loan in anticipation of the receipts from special assessments for the purpose of defraying the costs of the improvement for which the assessment was levied. Such loan shall not exceed the amount of the assessment for the completion of the whole work. The council or legislative body may issue bonds of the city for such loan, and may, in its discretion, pledge the full faith and credit of the city for their payment. Bonds for 2 or more improvements of the same nature may be consolidated in a single issue.

HISTORY: CL 1897, 3307;—CL 1915, 3229;—Am. 1929, p. 95, Act 53, Eff. Aug. 28;—CL 1929, 2153;—CL 1948, 110.19.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

110.20 Public improvements; increase of funds by electors; limit.

Sec. 20. (1) Should any greater amount be required in any year for the purpose of erecting public buildings, or for the purchase of ground therefor, or for other public improvements or purposes, to be paid for from the general funds of the city, than can be raised by the council under the foregoing provisions of this chapter, such amount may be raised by tax or loan, or partly by tax and partly by loan, if authorized by a majority of the electors voting upon the question at an annual city election or special election called for such purpose. The amount that may be voted or raised by tax in any year under the provisions of this act, shall not exceed 2% of the assessed valuation of the real and personal property in the city as shown by the last preceding tax rolls made therein.

Bond limits.

(2) The amount which may be voted or raised by bonds shall not cause the net bonded indebtedness incurred for all public purposes at any time to exceed 10% of the assessed valuation of the real and personal property in the city subject to taxation as shown by the last preceding assessment roll of the city. In case of fire, flood or other calamity, the legislative body may borrow for the relief of the inhabitants of the city and for the preservation of municipal property, a sum of not to exceed 1/4 of 1% of the assessed valuation of the real and personal property in the city, subject to taxation as shown by the last preceding assessment roll of the city, which shall be due in not more than 3 years, even if such loan would cause the indebtedness of the city to exceed the foregoing limitation. In computing the net bonded indebtedness, bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city, mortgage bonds which are secured only by mortgage on the property, revenues or franchise of a public utility shall not be included and moneys on hand in a fund pledged for the retirement of principal only of any outstanding bonds included in the net bonded indebtedness, including securities on hand representing investments of those moneys in any such fund, shall also be deducted from the amount of the bonded indebtedness.

Equalized assessed valuation.

(3) Assessed valuations as finally determined by the process of equalization shall be used in computing the foregoing limitations. Such limitations shall apply to future taxes and loans, notwithstanding that the approving election was held when lower limitations were in effect which would have been exceeded by the voted tax or loan, and any such election is validated insofar as concerns the amount of tax or loan so voted.

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HISTORY: CL 1897, 3308;—CL 1915, 3230;—CL 1929, 2154;—CL 1948, 110.20;—Am. 1960, p. 16, Act 17, Eff. Aug. 17;—Am. 1969, p. 173, Act 88, Eff. Mar. 20, 1970.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

SEWER BONDS: See Act 4 of 1911, being Compilers' § 115.1, legalizing sewer bonds heretofore attempted to be authorized by cities of fourth class, pursuant to provisions of this section and Compilers' § 110.21 and 110.25.

110.21 Public improvements; resolution submitting proposition to vote; notice; ballot.

Sec. 21. The proposition to raise such additional amount shall be submitted to a vote of the electors by an ordinance or resolution of the council, distinctly stating the purpose of the proposed expenditure, the amount proposed to be raised therefor, and whether by tax or loan. Such ordinance or resolution shall be passed, and published in 1 or more of the newspapers of the city, and copies thereof posted in 5 of the most public places in each ward of the city, at least 2 weeks before the election at which the vote is to be taken. Such vote shall be by ballot.

HISTORY: CL 1897, 3309;—CL 1915, 3231;—CL 1929, 2155;—CL 1948, 110.21.

ELECTIONS: See Compilers' § 86.1.

SEWER BONDS: See Act 4 of 1911, being Compilers' § 115.1, legalizing sewer bonds heretofore attempted to be authorized by cities of fourth class, pursuant to provisions of this section and Compilers' §§ 110.20 and 110.25.

110.22 Accounting rules; moneys received.

Sec. 22. All moneys and taxes raised, loaned or appropriated for the purposes of any particular fund, shall be paid in and credited to such fund, and shall be applied to the purposes for which such moneys were raised and received, and to none other; nor shall the moneys belonging to 1 fund be transferred to any other fund, or be applied to any purpose for which such other fund is constituted, except when there shall be a surplus in any general fund at the close of any fiscal year. In such case the surplus may be transferred to the sinking fund, should there be a deficiency in that fund, otherwise the council may apply such surplus as they shall deem proper. Moneys not received or appropriated for any particular fund shall be credited to the contingent fund: Provided, That moneys raised or collected in any fund for operating expense, extension or construction of any municipally owned public utility, in excess of the expenditure requirements of that utility in any year, shall not be transferred to any other fund at the close of the fiscal year, except for the payment of bonds or obligations incurred on account of that utility, or to provide for replacements or extensions of that utility.

HISTORY: CL 1897, 3310;—CL 1915, 3234;—Am. 1917, p. 344, Act 168, Eff. Aug. 10;—CL 1929, 2156;—CL 1948, 110.22.

110.23 Moneys; procedure for disbursement.

Sec. 23. No money shall be drawn from the treasury, except in pursuance of the authority and appropriation of the council and upon the warrant of the clerk. Such warrant shall specify the fund from which it is payable, and shall be paid from no other fund.

HISTORY: CL 1897, 3311;—CL 1915, 3235;—CL 1929, 2157;—CL 1948, 110.23.

110.24 Moneys; drawing upon exhausted funds; warrants on such funds declared void.

Sec. 24. No warrant shall be drawn upon the treasury, after the fund from which it should be paid has been exhausted; nor when the liabilities outstanding, and previously incurred and payable from such fund, are sufficient to exhaust it. Any warrant, draft or contract, payable by the provisions of this act from any particular fund, excepting bonds given for loans herein authorized, and issued or made after such fund has been exhausted by previous payments or by previous liabilities payable from such fund, shall be void as against the city.

HISTORY: CL 1897, 3312;—CL 1915, 3236;—CL 1929, 2158;—CL 1948, 110.24.

110.25 Loans; limitation; bonds, issuance.

Sec. 25. No loans shall be made by the council, or by its authority, in any year exceeding the amounts prescribed in this act. For any loans lawfully made, the bonds of

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the city may be issued, bearing a legal rate of interest. A record showing the dates, numbers and amounts of all bonds issued, and when due, shall be kept by the city clerk. When deemed necessary by the council to extend the time of payment, new bonds may be issued in place of former bonds falling due, in such manner as merely to change, but not increase the indebtedness of the city. Each bond shall show upon its face the class of indebtedness to which it belongs, and from what fund it is payable.

HISTORY: CL 1897, 3313;—CL 1915, 3237;—CL 1929, 2159;—CL 1948, 110.25.

LIMIT OF TAXATION: See also Act 4 of 1911, being Compilers' § 115.1 et seq.

SEWER BONDS: See Act 4 of 1911, being Compilers' § 115.1, legalizing sewer bonds heretofore attempted to be authorized by cities of fourth class, pursuant to provisions of this section and Compilers' §§ 110.20 and 110.21.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

110.26 Annual accounts audit by council; statement, contents.

Sec. 26. Immediately upon the close of the fiscal year the council shall audit and settle the accounts of the city treasurer and other officers of the city, and the accounts also, as far as practicable, of all persons having claims against the city, or accounts with it not previously audited; and shall make out a statement in detail of the receipts and expenditures of the corporation during the preceding year, which statement shall distinctly show the amount of all taxes raised during the preceding year for all purposes, and the amount raised for each fund; the amount levied by special assessments and the amount collected on each; and the amount of money borrowed, and upon what time and terms, and for what purpose; also the items and amounts received from all other sources during the year, and the objects thereof, classifying the expenditures for each purpose separately. Said statement shall also show the amount and items of all indebtedness outstanding against the city, and to whom payable, and with what rate of interest; the amount of salary or compensation paid or payable to each officer of the city for the year, and such other information as shall be necessary to a full understanding of all the financial concerns of the city.

HISTORY: CL 1897, 3314;—CL 1915, 3238;—CL 1929, 2160;—CL 1948, 110.26.

110.27 Statement of receipts; filing, publication.

Sec. 27. Said statement, signed by the mayor and clerk, shall be filed in the office of the city clerk, and a copy thereof published in 1 of the newspapers of the city.

HISTORY: CL 1897, 3315;—CL 1915, 3239;—CL 1929, 2161;—CL 1948, 110.27.

110.28 Misappropriation of moneys; penalty.

Sec. 28. If any officer of the corporation shall, directly or indirectly, appropriate or convert any of the moneys, securities, evidences of value, or any property whatsoever, belonging to the corporation or any board thereof, to his own use, or shall directly or indirectly and knowingly, appropriate or convert the same to any other purpose than that for which such moneys, securities, evidences of value or property may have been appropriated, raised or received, or to any purpose not authorized by law, he shall be deemed guilty of willful and corrupt malfeasance in office, and may be prosecuted, tried and convicted therefor, and, on conviction, may be punished by fine not exceeding 1,000 dollars, or by imprisonment in the state prison for a period not exceeding 3 years, or both, in the discretion of the court.

HISTORY: CL 1897, 3316;—CL 1915, 3240;—CL 1929, 2162;—CL 1948, 110.28.

110.29 Bonds; terms of issuance; violation by officers, penalty.

Sec. 29. Every bond issued by any city shall be made payable within 30 years from the date of issue and shall contain on its face a statement specifying the object for which the same is issued, and if issued for the purpose of raising money for any public improvement, the particular public improvement shall also be specified on the face of such bond, and it shall be unlawful for any officer of such city to sign or issue any such bond without such matters are set forth on the face of the same as aforesaid, or to use such bonds or the proceeds from the sale thereof, for any other object than that men-

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tioned on the face of such bond, and any such officer who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not exceeding 1,000 dollars, or by imprisonment in the county jail for a period not exceeding 1 year, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1897, 3317;—CL 1915, 3241;—CL 1929, 2163;—CL 1948, 110.29.

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CHAPTER XXXI—ASSESSMENT AND COLLECTION OF TAXES.

111.1 Tax assessment and collection by supervisors; city assessor, duties; rules.
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111.1 Tax assessment and collection by supervisors; city assessor, duties; rules.

Sec. 1. The supervisors of every city shall, in each year, make and complete an assessment of all the real and personal property within their respective wards liable to taxation under the laws of the state, and of all the property of any person liable to be assessed therein, in the same manner, and within the same time as required by law for the assessment of property in the townships of the state, and in so doing they shall conform to the provisions of law governing the action of supervisors of townships performing like services, and in all other respects within their respective wards, they shall, unless otherwise in this act provided, conform to the provisions of law applicable to the action and duties of supervisors in townships, in the assessment of property, the levying of taxes, and in the issuing of warrants for the collection and return thereof: Provided, That any city now incorporated, and which shall become re-incorporated under this act, now having an assessor for the assessment of property and the levying of taxes, such city may retain its present method of assessing property and levying taxes, and such assessor in office at the time this act shall take effect, shall remain in office until the expiration of the term for which he was appointed or elected and until his successor shall have been appointed and qualified. The council of any city re-incorporated under the provisions of this act may by ordinance provide for the appointment by the council upon the recommendation of the mayor, a city assessor who shall hold his office for 1 year from and after the first Monday in March of the year in which he shall have been appointed, and such appointment shall be made as aforesaid on or before the second Monday in April in each year. Such assessor shall make an assessment of all real and personal property within such city in the same manner, and have the same powers, and perform the same duties touching the assessment of such property and the levying of such taxes as are performed by supervisors in townships in such matters, which powers shall be exercised and duties shall be performed by such assessor instead of being executed and performed by the supervisor of the several wards in any such city as hereinbefore provided. Such assessor shall make his assessment of all such property in a single roll. Where, however, the council has decided to have the taxes levied and collected in 2 installments, such assessments shall be made in 2 separate rolls, 1 for the city taxes and, special assessments to be known as the "city

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or July tax roll," the other for the state, county and school taxes, to be known as the "December tax roll," and in the making of such assessments and in the levying of taxes such city shall be treated as a whole or as 1 assessment district as townships are treated under the general tax laws of the state.

HISTORY: Am. 1897, p. 324, Act 239, Imd. Eff. June 2;—CL 1897, 3318;—CL 1915, 3242;—CL 1929, 2164;—CL 1948, 111.1.
TAXES: Manner of assessment, see Compilers' §§ 211.10 et seq., 211.39 et seq.

111.2 Personal property; assessment; tax exemption.

Sec. 2. If any person residing in the city a part of the time during the year shall, in the opinion of any supervisor, unjustly or falsely claim exemption from taxation therein on the ground that he or she has a residence, and is taxed or liable to taxation elsewhere than in said city, the supervisor shall, notwithstanding, assess such person for such amount of personal property as in his opinion shall be just, and such assessment shall be conclusive as to the liability of such person to be assessed and to pay the tax levied in pursuance thereof, unless such person shall present to the treasurer, or officer requiring payment of such tax, a receipt duly signed and authenticated by the affidavit of some other collector of taxes, and also by the affidavit of the person charged with the tax, showing that such person has paid a tax upon all of the same property for the same year to such other collector or receiver of taxes.

HISTORY: CL 1897, 3319;—CL 1915, 3243;—CL 1929, 2165;—CL 1948, 111.2.

111.3 Personal property; assessment; situs.

Sec. 3. All personal property found in any ward may be assessed therein, whether the owner thereof resides in such ward or elsewhere. If there shall be any doubt as to the ward in which any person shall be assessed for personal property belonging to such person, the board of review hereinafter mentioned may direct as to the ward in which the assessment shall be made, and any assessment so made shall be conclusive as to the liability of such person to be assessed in such ward for said property.

HISTORY: CL 1897, 3320;—CL 1915, 3244;—CL 1929, 2166;—CL 1948, 111.3.
PERSONAL PROPERTY: See Compilers' § 211.8 et seq.

111.4 Property assessment; equalization.

Sec. 4. For the purpose of assessing all property equally in the whole city, the supervisors of the several wards shall meet and confer together from time to time, while making their assessments, and equalize their valuations in such manner as may be just.

HISTORY: CL 1897, 3321;—CL 1915, 3245;—CL 1929, 2167;—CL 1948, 111.4.

111.5 Board of review; members, duties, compensation; equalization by county supervisors; apportionment.

Sec. 5. The supervisors of the several wards, the city assessor in cities providing for such officer, the mayor and the city attorney, shall constitute a board of equalization and review of the general assessment rolls of the several wards of said city, a majority of whom shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day. They shall have power, and it shall be their duty, to examine said assessment rolls, and they shall have authority to and shall correct any errors or deficiencies found therein, either as to the names, valuations or descriptions; and of their own motion, or on cause shown, may reduce or increase the valuation of any property found on said rolls, and shall add thereto any taxable property in said city that may have been omitted, and shall value the same; and to strike from said rolls any property wrongfully thereon, and generally to perfect said rolls in any respect by said board deemed necessary and proper, for which services such members of said board shall receive 2 dollars per day while actually employed. If on examination they shall deem the valuation of the several wards to be relatively unequal, they shall equalize the same by adding to or deducting from the total valuation of the taxable property in any ward such an amount as, in their judgment, will produce relatively an equal and

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uniform valuation of the real estate in the city; and the amount added to or deducted from the total valuation in any such ward shall be so stated in the certificate attached to the assessment roll of such ward; and all taxes for state, county, school, general city and sewer purposes shall be apportioned according to said equalization, in the manner hereinbefore provided, and said equalization shall not be changed with regard to the relative valuation of the several wards of said city, and the board of supervisors of the county in which such city is located shall equalize such city as a unit the same as a township is equalized, and any amount added to or deducted from the total valuation of such city as a unit, shall be apportioned by the clerk of the board of supervisors among the several wards, according to the equalized valuation of the real property in each ward as fixed by the board of review.

HISTORY: CL 1897, 3322;—Am. 1899, p. 203, Act 136, Imd. Eff. June 21;—CL 1915, 3246;—CL 1929, 2168;—CL 1948, 111.5.
BOARD OF REVIEW: See Compilers' § 211.28 et seq.
EQUALIZATION BY COUNTY: See Compilers' § 211.34 et seq.

111.6 Board of review; meetings of board; officers; proceedings; statement, form; endorsed rolls returned to supervisors; finality.

Sec. 6. The said board shall meet on the third Monday in May in each year, at the council rooms in such city, at 9 o'clock in the forenoon, at which time and place notice shall be given by the clerk at least 2 weeks prior to the time of meeting, by publishing a notice thereof in 1 or more of the newspapers of said city, and also by posting the same in 3 public places in each ward of said city, at which time and place the several supervisors shall submit to said board their respective general assessment rolls. They shall select 1 of their number as chairman, and shall continue in session at least 4 days successively, and as much longer as may be necessary to complete the review, and at least 6 hours in each day, during said 4 days or more; and any person or persons desiring so to do, may examine his, her, or their assessment on said rolls, and may show cause, if any exists, why the valuation thereof should be changed and the said board shall decide the same, and their decision shall be final. They may examine on oath any person touching the matter of his or her assessment, and the chairman or any member of said board may administer oaths. They shall keep a record of their proceedings, and all changes made in said rolls, and the amount added to or deducted from the total valuation in each ward shall be entered upon such record, which record shall be deposited with the city clerk, who shall be clerk of said board.

The decision of a majority of the members of said board upon all questions shall govern. The rolls as prepared by the several supervisors shall stand as approved and adopted as the act of the board of review, except as changed as herein provided. Said board shall have the same power and perform the same duties in all respects as boards of review of townships, in reviewing and correcting assessments made by supervisors of townships, except as in this act otherwise provided.

After said board of review shall have completed the revision of said rolls, the clerk shall endorse and sign a statement upon each roll, to the effect that the same is the general assessment roll of the ward to which it applies for the year in which it has been prepared, as approved by the board of review. Such statement may be in the following form; [viz.] namely:

STATE OF MICHIGAN, }
City of ....., } ss.

I hereby certify that the board of review and equalization of the city of ..... have reviewed, equalized and corrected the within assessment roll, and have deducted (or added, as the case may be) ..... dollars from (or, to, as the case may be), the valuation of the real estate made by the supervisor, and have determined the aggre-

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gate value of such real estate to be ..... dollars, and the total value of the personal estate to be ..... dollars for the year A.D. .....

Dated .....

.....
Clerk of the Board of Review.

Upon the completion of such rolls, and their endorsement in manner aforesaid, they shall be returned to the several supervisors, and shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes mentioned in the general laws of the state, relating to the assessment of property and the levy and collection of taxes thereon. The omission of such endorsement, however, shall not affect the validity of any such roll.

HISTORY: CL 1897, 3323;—CL 1915, 3247;—CL 1929, 2169;—CL 1948, 111.6.
TAXES: SETTING ASIDE: See Compilers' § 211.34.

111.7 Assessment roll; certified copy delivered by supervisor to city clerk.

Sec. 7. Within 60 days after the confirmation, and where the council have decided to have the taxes levied and collected in 2 installments, and the roll is the city or July roll, on or before the first day of June following the confirmation of such rolls, as above provided, each supervisor shall deliver a certified copy of his assessment roll to the city clerk, to be filed in his office for the use of the council.

HISTORY: Am. 1897, p. 325, Act 239, Imd. Eff. June 2;—CL 1897, 3324;—CL 1915, 3248;—CL 1929, 2170;—CL 1948, 111.7.

111.8 Certification by city clerk to county clerk; contents.

Sec. 8. On or before the first Monday of October in each year, the city clerk shall certify to the county clerk of the county in which the city is located the aggregate amount of all sums which the council require to be raised for the next fiscal year for all city purposes, or where the council have decided to have the taxes paid in 2 installments, all sums for city purposes that have not been paid upon the July rolls, and for schools and library and school-house purposes, by general taxation upon all the taxable property of the whole city.

HISTORY: Am. 1897, p. 325, Act 239, Imd. Eff. June 2;—CL 1897, 3325;—CL 1915, 3249;—CL 1929, 2171;—CL 1948, 111.8.

111.9 Apportionment of amounts by board of supervisors; certification procedure.

Sec. 9. The board of supervisors of the county in which such city is located shall apportion the amounts to be raised as mentioned in the preceding section among the wards of the city, according to the equalized valuation of the property appearing upon the certificate of the several assessment rolls of the city for such year, as finally equalized by the board of supervisors, and the clerk of said board shall certify to the supervisor of each ward for assessment therein, the amount so apportioned to his ward; giving the amount apportioned for school, library and schoolhouse purposes in a separate sum, within 5 days after the board of supervisors of the county shall have completed the equalization of the valuation of the property in the county for the year. Said clerk of the board shall also certify to the city clerk the amounts apportioned to the several wards of the city, as aforesaid.

HISTORY: CL 1897, 3326;—CL 1915, 3250;—CL 1929, 2172;—CL 1948, 111.9.
APPORTIONMENT: See Compilers' § 211.39 et seq.

111.10 Certification of taxes by city clerk to ward supervisors.

Sec. 10. On or before the first day of October, or on or before the first Monday of June in each year where the council have decided to have the taxes levied and collected in 2 installments, the city clerk shall certify to the supervisors of each ward for the assessment therein, all amounts which the council require to be assessed or re-

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assessed in any street district, main or special sewer district, or other special assessment district, or upon any parcel of land, or against any particular person as a special assessment or otherwise within his district, together with a designation of the district, or description of the land or person upon whom or within which the several sums are to be assessed or re-assessed, with such further descriptions and directions as will enable such supervisor to assess the several amounts upon the property and person chargeable therewith.

HISTORY: Am. 1897, p. 325, Act 239, Imd. Eff. June 2;—CL 1897, 3327;—CL 1915, 3251;—CL 1929, 2173;—CL 1948, 111.10.

111.11 Ward supervisors; duties as to tax levy.

Sec. 11. Each supervisor, shall, where the taxes are levied and collected on 1 tax roll, at the time of levying the county taxes in his ward for the year, levy in the same roll upon all the taxable property in the ward, the amounts certified to him by the clerk of the board of supervisors as provided in section 9 of this chapter, to be raised for city, school and library purposes placing the city taxes in 1 column; and the school, library and schoolhouse taxes in another column, and he shall also levy, in the same roll, upon the lands, property, and persons chargeable therewith, all special assessments and sums reported to him by the city clerk, as provided in section 10 of this chapter, or in chapter 30 of this act, for assessment or re-assessment, in street districts, main or special sewer districts, or for other special assessments, placing all such special assessments in separate columns, and shall place the state and county taxes in other columns: Provided, That where the council has decided to have the taxes levied and collected in 2 installments, each supervisor shall, in the month of June in each year, levy in the July roll upon all taxable property in the ward, the amounts certified to him by the city clerk to be raised for city taxes, and special assessments, and he shall, at the time fixed in the general tax law, levy in the December roll, all sums to be raised for school, library and schoolhouse taxes, and all such taxes as were not paid on the fifteenth day of November next following the levy of such city taxes, and special assessments, together with interest thereon, from July first to December first, at 10 per cent per annum, placing said interest in a separate column headed "Penalty" and said penalty shall, thereafter be treated in all respects as an item of taxes. Such item of taxes, and each special assessment shall be entered in a separate column in such rolls, and the total taxes shall be entered in the last column of said roll.

HISTORY: Am. 1897, p. 326, Act 239, Imd. Eff. June 2;—CL 1897, 3328;—CL 1915, 3252;—CL 1929, 2174;—CL 1948, 111.11.

NOTE: Ch. 30, above referred to, is Compilers' § 110.1 et seq.

WARD SUPERVISORS: Assessment, see Compilers' §§ 211.10 et seq., 211.39 et seq. Assessment roll, see Compilers' § 211.24 et seq.

111.12 Ward supervisors; delivery of roll to city clerk; amounts charged to treasurer, bond; collection procedure.

Sec. 12. Each supervisor [upon] on completing his roll shall certify to the city clerk the amounts of taxes levied in the roll for the state and county purposes, and for city and school taxes, special assessments and other purposes, and the clerk shall charge the said amounts to the city treasurer. The city treasurer shall give bond to the county treasurer in the same manner as township treasurers are required to do; and thereupon, and on or before the first Monday in December, and in case the city have 2 tax rolls, and the roll be the July roll, such roll shall be delivered to the city treasurer on or before the first day of July, each supervisor shall deliver a certified copy of the December tax roll, with the taxes extended therein as aforesaid, to the city treasurer, with his warrant for the collection of the taxes therein, annexed thereto.

HISTORY: Am. 1897, p. 326, Act 239, Imd. Eff. June 2;—CL 1897, 3329;—CL 1915, 3253;—CL 1929, 2175;—CL 1948, 111.12.

111.13 Warrant annexed to roll; contents.

Sec. 13. The warrant annexed to each roll shall state the several amounts levied therein to be paid into the city and county treasuries respectively; and shall command the city treasurer to collect from the several persons named in the said roll the several

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sums named in the last column thereof opposite their respective names, and to pay over and to account for all moneys collected and specified in the roll as in the said warrant directed, on the first day of March then next ensuing. If, however, the council have decided to have the taxes levied and collected in 2 installments and the roll be the July roll, the warrant annexed thereto shall command the city treasurer to collect from the several persons named in said roll the several sums named in the last column thereof opposite their respective names, and to pay over and account for all moneys collected and specified in the roll as in said warrant directed, on or before the fifteenth day of September next following. Or, if the roll be the December roll, the warrant annexed thereto shall command the city treasurer to collect, pay over and account as aforesaid, within the time first above limited, as in cases in which the city has but 1 collection of taxes, and the several warrants shall authorize the treasurer, in case any person shall neglect to pay his tax, to levy the same by distress and sale of the goods and chattels of such person.

HISTORY: Am. 1897, p. 327, Act 239, Imd. Eff. June 2;—CL 1897, 3330;—CL 1915, 3254;—CL 1929, 2176;—CL 1948, 111.13.

111.14 Taxes; lien on land.

Sec. 14. All taxes levied in any ward tax roll, shall be and remain a lien upon the lands upon which they are levied until paid.

HISTORY: CL 1897, 3331;—CL 1915, 3255;—CL 1929, 2177;—CL 1948, 111.14.

111.15 City treasurer; duties; notice to taxpayers; collection fee.

Sec. 15. Upon receiving the several ward tax rolls as above provided, the city treasurer shall give notice immediately to the taxpayers of the city that such rolls have been delivered to him and that the taxes therein levied can be paid to him at his office at any time before the tenth day of January then next ensuing, without any charge for collection; or where the council have decided to have the taxes levied and collected in 2 installments, and the roll be the July roll, on or before the fifteenth day of September, without any charge for collection; but that 4 per cent collection fee shall be charged and collected upon all taxes remaining unpaid on said tenth day of January or fifteenth day of September, as the case may be. Said notice shall be given by publishing the same twice in 1 or more of the newspapers of the city and by posting copies thereof in 3 public places in each ward of the city; and it shall be the duty of the treasurer to be at his office at such times previous to the said tenth day of January and fifteenth day of September, as the council shall direct, and there receive payment of such taxes as may be offered to him. He shall collect no fees upon any taxes paid to him before the said tenth day of January, or where the council have decided to have the tax levied and collected in 2 installments and the roll be the July roll, on or before the fifteenth day of September, but in all other cases he shall collect both the tax and the 4 per cent collection fee.

HISTORY: Am. 1897, p. 327, Act 239, Imd. Eff. June 2;—CL 1897, 3332;—Am. 1899, p. 204, Act 136, Imd. Eff. June 21;—CL 1915, 3256;—CL 1929, 2178;—CL 1948, 111.15.

TAX COLLECTION: See Compilers' § 211.44 et seq.

111.16 Unpaid taxes; collection; sale.

Sec. 16. For the collection of all taxes remaining unpaid on the general roll on the tenth day of January, and on the July roll, where there is a July roll, on the fifteenth day of September, the city treasurer shall proceed in the same manner as township treasurers are required by law to do for the collection of taxes in townships, and shall for that purpose have all the powers and authority conferred by law upon township treasurers for such purposes, and shall, when necessary, enforce the payment of the

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tax against any person by distress and sale of his goods and chattels, if any such can be found anywhere within the county, or any county adjoining thereto, and from which seizure no property shall be exempt.

HISTORY: Am. 1897, p. 328, Act 239, Imd. Eff. June 2;—CL 1897, 3333;—CL 1915, 3257;—CL 1929, 2179;—CL 1948, 111.16.
COLLECTION: See notes to Compilers' § 69.17. See Compilers' § 211.46 et seq.

111.17 Unpaid taxes; new warrants; suits.

Sec. 17. The county treasurer may issue new warrants to the city treasurer for the collection of taxes in the same manner and in the same cases, and with the same effect, as such new warrant may be issued to township treasurers. The city collector may, and it shall be his duty to proceed by suit in the name of the city, for the collection of unpaid taxes in the same cases, and under like circumstances in which township treasurers are authorized to proceed in that manner; and all the provisions of law applicable to suits and evidence therein brought by township treasurers in the name of their township for such purposes, shall apply to suits brought by the city treasurer as aforesaid.

HISTORY: CL 1897, 3334;—CL 1915, 3258;—CL 1929, 2180;—CL 1948, 111.17.
COLLECTION SUITS: See Compilers' § 211.47 et seq.

111.18 Assessment unit; city treasurer, duties.

Sec. 18. For the purpose of assessing and levying taxes in any city incorporated under this act, for state, county, school, and library purposes, each ward shall be considered the same as a township, and all provisions of law relative to the collection of taxes levied in townships shall apply to the collection of taxes levied and assessed by the supervisors in such city, except as herein otherwise provided. For the purpose of collecting taxes and returning property for non-payment thereof, the city treasurer shall perform the same duties and have the same powers as township treasurers, except as herein otherwise provided.

HISTORY: CL 1897, 3335;—CL 1915, 3259;—CL 1929, 2181;—CL 1948, 111.18.
ASSESSMENT: See Compilers' § 211.10 et seq.

111.19 Moneys received; disposition.

Sec. 19. The city treasurer shall, within 1 week after the time specified and directed in the warrants annexed to said several December tax rolls, pay to the county treasurer the sums required in said warrants to be so paid, either in delinquent taxes on lands, or in funds then receivable by law, and all lands upon which any unpaid tax shall be returned shall be sold therefor the same as lands returned for delinquent taxes by township treasurer.

HISTORY: Am. 1897, p. 328, Act 239, Imd. Eff. June 2;—CL 1897, 3336;—CL 1915, 3260;—CL 1929, 2182;—CL 1948, 111.19.

111.20 Delinquent taxes; collection.

Sec. 20. All the provisions of law respecting delinquent taxes levied in townships shall apply to all taxes levied in any ward of the city, and be returned as delinquent to the county treasurer; and the ward, in respect to taxes levied therein and returned to the county treasurer as delinquent shall, except as herein otherwise provided, be considered and treated as a township; and all provisions of law for the sale of lands for the payment of taxes levied for state, county and township purposes, and returned delinquent, shall apply to the return and sale of property for the non-payment of delinquent taxes levied in any ward of the city, except as herein otherwise provided.

HISTORY: CL 1897, 3337;—CL 1915, 3261;—CL 1929, 2183;—CL 1948, 111.20.
DELINQUENT TAXES: See Compilers' § 211.55 et seq.

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CHAPTER XXXII—EDUCATION.

112.1-112.20 Repealed.

112.1-112.20 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section related to education in fourth class cities.

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CHAPTER XXXIII—FOURTH CLASS CITIES—MISCELLANEOUS.

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113.20 Vacated territory in two or more townships or counties; division of indebtedness, procedure.

113.1 Reincorporation under act; procedure; council, duty, resolution; declaration of reincorporation, filing; evidence.

Sec. 1. All cities heretofore incorporated under any general or special law of this state, and having a population of 10,000 or less, according to the last preceding census, are hereby reincorporated under and made subject to the provisions of this act, as cities of the fourth class, such reincorporation to take effect on the first day of January, in the year of our Lord 1896, and all acts by virtue of which such cities have been incorporated are hereby repealed from and after the said first day of January in the year of our Lord 1896, except as hereinafter in this section provided: Provided however, That whenever 50 or more of the qualified voters of any city hereinbefore described as a city of the fourth class, which has been incorporated under a special act of the legislature, shall file with the council thereof, on or before the first day of November, in the year of our Lord 1895, a petition praying that an election of the qualified voters of such city be called to determine the question as to whether such city shall remain incorporated under the special act under which it was incorporated and by which it is governed at the time of the filing of such petition, or whether it shall become subject to the provisions of this act, thereupon it shall be the duty of such council, within 10 days after the filing of such petition, to call a special election of the qualified voters of such city to determine such question. If a majority of all the votes cast at such election are in favor of remaining incorporated under such special act by which such city is governed at the time of the filing of such petition, then such city shall not be reincorporated under the provisions of this act, but shall remain incorporated under such special act, which shall remain in full force and effect as if this law had not been enacted: Provided further, That any city of this state, when the population thereof is 10,000 or less, according to the last preceding state census even though the voters of said city have theretofore elected to remain incorporated under the special act governing such city, may at any time thereafter be incorporated under and made subject to the provisions of this act and the act of which this act is amendatory, as a city of the fourth class as follows: When 100 or more freeholders residing within such city shall file with the council thereof, on or before the first day of July in any year, a petition praying that an election of the qualified voters of such city be called to determine the question as to whether such city shall become incorporated as a city of the fourth class under this act

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being Act No. 215 of the Public Acts of this state for the year A.D. 1895, then it shall be the duty of the council within 10 days after the filing of such petition to call a special election of the qualified voters of such city to determine such question. Any election held under the provisions of this chapter shall be held upon such day, and at such time and in such places in said city as may be designated by a resolution of the council: Provided, That the same shall be held on or before the first day of December in the year in which the petition as above provided is filed. Notice of such election shall be given in the same manner and for the same length of time as is provided in the charter of such city for the calling of special elections, and the votes shall be counted and canvassed, and the returns shall be made, and the result declared and determined in the same manner as is provided in such charter for the counting, canvassing and returning of votes, and the determining of the result thereof at special elections. No new registration shall be necessary for the holding of such election, and only those whose names shall appear in the registration books used at the next previous annual city election shall be entitled to vote at such election. The ballots used at such election shall contain the instructions required by the general election laws of the state, and the proposition to be submitted shall be in the following language:

For becoming reincorporated under the general law—Yes. ☐
For becoming reincorporated under the general law—No. ☐

If a majority of the votes cast at such election shall be in favor of reincorporating under the provisions of this act, then such city shall become reincorporated under and made subject to the provisions of this act on the first day of January in the year following such special election. At the next regular meeting the council shall, by a resolution to be entered in the record of their proceedings, recite that at said election, stating the date thereof, the question as to whether said city should be reincorporated as a city of the fourth class under the provisions of this act was submitted to a vote of the electors of the city, and that a majority of those voting upon the question, voted for reincorporation, and shall in the resolution declare that, in accordance with said vote, the said city shall be and is reincorporated as a city of the fourth class; the clerk of the city shall record the same in the record of the proceedings of the council and shall make a copy of so much of the record of the proceedings of the meeting at which the same was adopted as may be necessary to show the time and place of holding such meeting, and the names of the members of the council who were present, and the passage of said resolution, including a true copy thereof. To said copy the clerk and the mayor of the city shall annex their certificate, under the corporate seal of the city showing the same to be a true copy of said record, which said certified copy of the record and resolution aforesaid shall be designated as a "declaration of reincorporation" and shall be transmitted to, and filed and recorded in the office of the secretary of state, and the declaration of reincorporation filed in the office of the secretary of state, or the records thereof, or certified copies of such records shall be prima facie evidence of the due and legal reincorporation of such city as a city of the fourth class under the provisions of this act.

HISTORY: CL 1897, 3358;—Am. 1899, p. 205, Act 136, Imd. Eff. June 21;—CL 1915, 3282;—CL 1929, 2204;—CL 1948, 113.1.
ELECTIONS: See Compilers' § 86.1 et seq.

113.2 Reincorporation under act; property, assets, vesting; liabilities; cumulative remedies.

Sec. 2. All cities reincorporated under and made subject to the provisions of this act, as provided in the preceding section, shall succeed to and be vested with all the property, real and personal, moneys, rights, credits and effects, and all the records, files, books and papers belonging to such cities as formerly incorporated, and no rights or li-

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abilities, either in favor of or against such former corporation, existing at the time of its reincorporation, under or subject to the provisions of this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of the new corporation, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made: Provided, That when a different remedy is given in this act which can be made applicable to any rights existing at the time of the incorporation of the city under or subject to this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

HISTORY: CL 1897, 3359;—CL 1915, 3283;—CL 1929, 2205;—CL 1948, 113.2.

113.3 Reincorporation under act; officers in office until successors qualify.

Sec. 3. All the officers in any such city, elected or appointed under the provisions of the former act of incorporation of such city, and in office at the time of such reincorporation under this act, shall continue to exercise their respective functions under the provisions of this act of reincorporation for the full term for which they were so elected or appointed, and until their successors shall have qualified and entered upon the duties of their office, unless herein otherwise provided.

HISTORY: CL 1897, 3360;—CL 1915, 3284;—CL 1929, 2206;—CL 1948, 113.3.

113.4 Reincorporation under act; existing by-laws, ordinances.

Sec. 4. The by-laws and ordinances of any such city, and the rules and regulations of the council and of the board of health or other board or boards of such city heretofore in force and not inconsistent with this act shall remain in force after the passage of this act, and are hereby declared to be re-enacted by virtue of and under the powers conferred by this act until altered, amended or repealed by the council or such board as the case may be.

HISTORY: CL 1897, 3361;—CL 1915, 3285;—CL 1929, 2207;—CL 1948, 113.4.

113.5 Reincorporation under act; special assessments, enforcement.

Sec. 5. In cases where a special assessment has been made by authority of and confirmed by the council of any such city, and the same, or some part thereof, shall not have been collected when this act shall take effect, such city, as hereby reincorporated, shall have authority to enforce the payment thereof, and the same proceedings may be had therefor as are provided in this act.

HISTORY: CL 1897, 3362;—CL 1915, 3286;—CL 1929, 2208;—CL 1948, 113.5.

113.6 Reincorporation under act; existing licenses.

Sec. 6. All licenses granted by any such city under its former act of incorporation shall be and remain in full force and virtue until the expiration of the time for which they were granted.

HISTORY: CL 1897, 3363;—CL 1915, 3287;—CL 1929, 2209;—CL 1948, 113.6.

113.7 Reincorporation under act; first election of officers, procedure.

Sec. 7. The first election of officers for any such city reincorporated under the provisions of this act shall be held on the first Monday in April in the year of our Lord, 1896, and notice thereof and of the officers to be elected thereat shall be given and the election held and conducted, the votes canvassed, the result determined and notice given to persons elected in the same manner and within the same time as herein provided.

HISTORY: CL 1897, 3364;—CL 1915, 3288;—CL 1929, 2210;—CL 1948, 113.7.

ELECTIONS: See Compilers' § 86.1 et seq.

Sec. 8.

HISTORY: CL 1897, 3365;—Rep. 1915, p. 480, Act 314, Eff. Jan. 1, 1916, (Jud. Act).

This section provided for service of process against a city.

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113.9 Reincorporation under act; platting of lands; liability of city for new streets.

Sec. 9. No lands or premises shall hereafter be laid out, divided and platted into lots, streets and alleys within any such city, except by permission and approval of the council by resolution passed for that purpose; nor until the proprietor shall file with the city clerk a correct survey, plan and map of such grounds and the subdivisions thereof, platted and subdivided as approved by the council, and made to their satisfaction; showing also the relative position and location of such lots, streets and alleys with respect to the adjacent lots and streets of the city; nor shall any such plat and dedication of the streets and public grounds thereon be recorded in the office of the register of deeds of the county in which such city is located until a certificate has been endorsed thereon by the city clerk under the seal of the city, showing that such plat and dedication has been approved by the council; nor shall the city by reason of such approval be responsible for the improvement, care and repairs of such streets and alleys excepting such as the council shall accept and confirm by ordinance or resolution as in this act provided.

HISTORY: CL 1897, 3366;—CL 1915, 3289;—CL 1929, 2111;—CL 1948, 113.9.

113.10 City; definition.

Sec. 10. The term "city," whenever used in this act shall be construed to mean a city incorporated under this act or made subject to its provisions.

HISTORY: CL 1897, 3367;—CL 1915, 3290;—CL 1929, 2112;—CL 1948, 113.10.

113.11 City not to own stock of incorporated companies.

Sec. 11. No such city shall become the owner or holder of stock or shares in any incorporated company.

HISTORY: CL 1897, 3368;—CL 1915, 3291;—CL 1929, 2213;—CL 1948, 113.11.

113.12 Affidavit of notice; filing, evidence.

Sec. 12. When, by the provisions of this act, notice of any matter or proceeding is required to be published or posted, an affidavit of the publication or posting of the same, made by the printer of the newspaper in which the same was inserted, or by some person in his employ knowing the facts, if such notice was required to be made by publication, or by the person posting the same, when required to be by posting, shall be prima facie evidence of the facts therein contained: Provided, The same shall be filed with the city clerk within 6 months from the date of the last publication thereof, or of posting the same.

HISTORY: CL 1897, 3369;—CL 1915, 3292;—CL 1929, 2214;—CL 1948, 113.12.

113.13 Judgment or decree; bond issue for payment.

Sec. 13. Whenever any judgment or decree of any court shall be rendered or decreed against any city and such city shall be unable to meet the payment of such judgment or decree by reason of the limitation of its power of taxation, then and in such case it shall be lawful for the council of such city to issue the bonds of such city to an amount not exceeding the sum of such judgment or decree, and the taxed costs arising in the procuring of such judgment or decree, together with the interest thereon, which bonds may be made payable at such time and place and at such rate of interest, not exceeding 6 per cent per annum, as shall be prescribed by the council, and such bonds shall be sold and disposed of at not less than par value, in such manner as may be deemed advisable by said council.

HISTORY: CL 1897, 3370;—CL 1915, 3293;—CL 1929, 2215;—CL 1948, 113.13.

113.14 Reincorporation from fourth to third class cities.

Sec. 14. Whenever any city of the fourth class shall have a population of more than 10,000 according to the last preceding federal or state census, then such city shall be

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reincorporated as a city of the third class at the time and in the manner provided by law for the incorporation of cities of the third class.

HISTORY: CL 1897, 3371;—CL 1915, 3294;—CL 1929, 2216;—CL 1948, 113.14.

Sec. 15. (This was a repeal section.)

HISTORY: CL 1897, 3371n;—CL 1915, 3295;—CL 1929, 2217;—Rep. 1947, p. 168, Act 129, Eff. Oct. 11.

113.16 Vacating incorporation of city; prerequisite, petition, procedure.

Sec. 16. Whenever the qualified electors of any incorporated city whose population has decreased since its incorporation to less than 500 inhabitants as shown by the last federal census and the qualified electors of such city show a desire to vacate the incorporation of the same, the city council upon petitions being presented to it at any regular or special meeting, signed by at least 1/4 of the legal voters of such city as shown by the registration list of the last preceding registration held in such city, praying that the incorporation of such city be vacated, shall immediately thereupon order a special meeting of the electors of such city to be held for the purpose of voting upon the question of vacating the incorporation of the same, and shall give 30 days' notice of the time and place of holding such meeting by posting up written or printed notices which shall state the object of such meeting by reciting the substance of such petition, in 6 of the most public places within the limits of such city.

HISTORY: Add. 1931, p. 389, Act 223, Eff. Sept. 18;—CL 1948, 113.16.

113.17 Vacating incorporation of city; election, form of ballots, transcript of proceedings certified to county clerk; plats unaffected.

Sec. 17. At the time of holding such meeting, all persons voting thereon shall have written or printed on their ballots "Shall the city of ..... be vacated as a city of the 4th class?

Yes ☐
No ☐

and such meeting shall be conducted and the votes shall be canvassed in the same manner as is provided for conducting elections in such city; and in case a 2/3 majority of the qualified electors of such city shall vote in favor of vacating the incorporation of the same, the city council, or a majority of them, shall, immediately thereafter, cause a transcript of all the proceedings in the case to be certified, under their hands, to the county clerk of the county in which such city or the principal part thereof is located: Provided, That nothing in this act contained shall authorize the qualified electors of any such incorporated city, or the board of supervisors, to vacate or alter any recorded plat of such city, or any street or alley in the same.

HISTORY: Add. 1931, p. 390, Act 223, Eff. Sept. 18;—CL 1948, 113.17.

113.18 Vacating incorporation of city; certified transcript of proceedings; resolution of board of supervisors, contents; representative districts.

Sec. 18. Upon receiving the transcript of the proceedings in submitting to a vote of the electors the question of vacating the incorporation of any city, properly certified to as provided in the preceding section, the county clerk shall lay the same before the board of supervisors of the county at its next regular annual meeting, and it shall thereupon be the duty of the board of supervisors to pass a resolution vacating the incorporation of such city. Such resolution shall provide that the territory of such city shall revert to and become a part of the township or townships from which it was originally taken, and that the inhabitants thereof shall for all purposes be deemed residents of such township or townships except that the integrity of all representative districts shall be preserved.

HISTORY: Add. 1931, p. 390, Act 223, Eff. Sept. 18;—CL 1948, 113.18.

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113.19 Vacating incorporation of city; deposit of books and records with county clerk; bond or other indebtedness, procedure and time for payment.

Sec. 19. Upon the vacation of the incorporation of any city, under the provisions of the preceding sections, it shall be the duty of the officers of such city to forthwith deposit all books, papers, records, and files, relating to the organization of, or belonging to such city, which are in their custody as such officers, with the county clerk of the county in which such city or the principal part thereof is located, for safe keeping and reference. Upon the vacation or discontinuance of any city incorporation, under the preceding sections, the indebtedness of such city, whether bonded or otherwise, if any there be, shall be assessed, levied and collected upon the territory embraced within the boundaries of such city immediately prior to such vacation. It shall be the duty of the supervisor or supervisors of the township or townships in which the territory formerly embraced within the limits of any vacated city (within 1 year from the date of the vacation of such city, except when such indebtedness falls due at some specified time, in which case such assessment shall be made so as to meet such indebtedness when the same falls due), to levy upon the assessment roll or rolls of his township upon the property formerly embraced within the limits of such city, the indebtedness of such city, or such portion of the same as shall be apportioned to the part of the territory formerly constituting such city as lies within his township as hereinafter provided. The taxes so assessed and levied shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness and the manner of the payment of such indebtedness shall be fixed by the board of supervisors in the resolution to be passed by said board vacating the incorporation of such city.

HISTORY: Add. 1931, p. 390, Act 223, Eff. Sept. 18;—CL 1948, 113.19.

113.20 Vacated territory in two or more townships or counties; division of indebtedness, procedure.

Sec. 20. In case the territory formerly embraced within such vacated city shall consist of territory of two or more townships in the same county, it shall be the duty of the board of supervisors to apportion, among the several townships, the amount of such indebtedness which each township shall bear; and in case such city was comprised of territory from 2 different counties, it shall be the duty of the boards of supervisors of the 2 counties to determine what portion of such indebtedness each county shall bear, using as a basis the last preceding assessment roll of such city prior to its vacation. Such indebtedness when so apportioned, shall be assessed, levied and collected as provided in the preceding section.

HISTORY: Add. 1931, p. 391, Act 223, Eff. Sept. 18;—CL 1948, 113.20.

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CHAPTER 115. FOURTH CLASS CITIES, SUPPLEMENTAL CHAPTER

LEGALIZATION OF SEWER BONDS
Act 4 of 1911

115.1 Sewer bonds of fourth class cities; legalization.

115.2 Declaration of necessity.

VALIDATION OF SPECIAL ASSESSMENTS
Act 324 of 1919

115.11 Special assessments of fourth class cities; validation.

REPRESENTATION ON BOARD OF SUPERVISORS
Act 391 of 1913

115.21 Representation on board of supervisors; cities not exceeding 350 inhabitants.

115.22 Representation on board of supervisors; new census, petition; procedure.

115.23 Enumerator; duties.

115.24 Enumerator; compensation.

115.25 Representation by mayor.

115.26 Petition; no filing fee; validity; prosecutor, services without expense.

Act 4, 1911, p. 7; Imd. Eff. Feb. 27.

AN ACT legalizing sewer bonds heretofore attempted to be authorized by cities of the fourth class under or pursuant to the provisions of sections 3308, 3309 and 3313 of the Compiled Laws of Michigan of 1897.

The People of the State of Michigan enact:

115.1 Sewer bonds of fourth class cities; legalization.

Sec. 1. All sewer bonds heretofore attempted to be authorized by any city of the fourth class, under or pursuant to the provisions of sections 3308, 3309 and 3313 of the Compiled Laws of Michigan of 1897, are hereby declared to be when issued legal and binding obligations of said city: Provided, That the proposition to make the loan represented wholly or in part by such bonds received the affirmative votes of 2/3 of the electors voting upon the question at an election actually held in said city, pursuant to 10 days' notice, notwithstanding any informalities in the ordinance or resolution submitting such proposition to a vote of the electors, and notwithstanding any defects in the publication of said ordinance or resolution, or failure to post copies of such ordinance or resolution as required by said section 3309, or any defects in the notice of the time and place or places of holding such election or of the purpose and object thereof: Provided further, That the amount of the loan represented wholly or in part by said bonds does not exceed the limit imposed by said section 3308.

HISTORY: CL 1915, 3232;—CL 1929, 2219;—CL 1948, 115.1.

NOTE: Secs. 3308, 3309, and 3313 of CL 1897, above referred to, are Compilers' §§ 110.20, 110.21, and 110.25, respectively.

115.2 Declaration of necessity.

Sec. 2. This act is immediately necessary for the preservation of the public health, and is therefore hereby ordered to take immediate effect.

HISTORY: CL 1915, 3233;—CL 1929, 2220;—CL 1948, 115.2.

Act 324, 1919, p. 562; Eff. Aug. 14.

AN ACT to validate certain sewer, paving and other special assessments attempted to be authorized by cities of the fourth class under or pursuant to chapter 24 of Act No. 215 of the Public Acts of 1895, as amended, said act being sections 2872 to 3295, inclusive, of the Compiled Laws of 1915.

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The People of the State of Michigan enact:

115.11 Special assessments of fourth class cities; validation.

Sec. 1. All sewer, paving and other special assessments heretofore attempted to be authorized by any city of the fourth class, under or pursuant to the provisions of chapter 24 of Act No. 215 of the Public Acts of 1895, as amended, the amounts of which special assessments are according to such attempted authorizations to be divided into not more than 10 installments, 1 of which it is proposed shall be collected each year, are hereby declared to be confirmed by the common council, a valid lien upon the respective lot or parcel of land assessed; the provisions of section 3122 of the Compiled Laws of Michigan of 1915 notwithstanding: Provided, That the proposition to authorize any such special assessments has been submitted to the electors of the city at any election duly and legally held and has received the affirmative vote of at least 2/3 of the electors voting thereon.

HISTORY: CL 1929, 2221;—CL 1948, 115.11.

NOTE: Ch. XXIV, above referred to, is Compilers' §§ 104.1 to 104.30; CL 1915, 3122, is Compilers' § 104.17.

Act 391, 1913, p. 747; Eff. Aug. 14.

AN ACT relating to the representation on the board of supervisors from certain cities of the fourth class.

The People of the State of Michigan enact:

115.21 Representation on board of supervisors; cities not exceeding 350 inhabitants.

Sec. 1. Whenever it shall appear upon a census being taken as provided for hereinafter, that the total population of any city, whether such city has been incorporated by virtue of a local act or acts, or under the general laws of the state relating to the incorporation of cities, does not exceed 350 inhabitants, actually residing therein, such city shall not be entitled thereafter to more than 1 representative on the board of supervisors of the county in which such city is located, the provisions of any general law heretofore passed or any local act having application to such city, or the county in which located, to the contrary notwithstanding.

HISTORY: CL 1915, 3344;—CL 1929, 2222;—CL 1948, 115.21.

115.22 Representation on board of supervisors; new census, petition; procedure.

Sec. 2. Whenever there is reason to believe that the population of any city of the class named in section 1 hereof has been reduced to less than 350 bona fide inhabitants, any member of the board of supervisors of the county in which such city is located may petition the circuit court having jurisdiction for the appointment of a suitable person to take a census of such city. A copy of such petition shall be served upon the mayor of such city at least 5 days before such petition shall come on to be heard by the circuit judge of such circuit, together with a copy of an order to show cause why such census should not be taken, which in all such cases shall be issued by the judge having jurisdiction thereof, and returnable not later than 15 days from the date of the issuance thereof. Upon the return of such order to show cause, any resident of such city or county shall be entitled to be heard either in support of or as opposed to the taking of such census. If satisfied on such hearing that there is good reason to believe that the population of such city is less than 350 bona fide inhabitants, it shall be the duty of the circuit judge to direct the county clerk of such county to appoint a resident elector of the county, not a resident of such city, to enumerate the inhabitants of such

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city. Such enumeration shall be taken within 30 days after such appointment has been made and accepted.

HISTORY: CL 1915, 3345;—CL 1929, 2223;—CL 1948, 115.22.

115.23 Enumerator; duties.

Sec. 3. It shall be the duty of the enumerator so appointed to enumerate all the inhabitants of such city by wards, and to visit each house or dwelling and to obtain the names of every known resident of each ward: Provided, That in the taking of such enumeration no one shall be counted who is not at the time of the taking of such census a bona fide and actual resident of such city. Upon completing such enumeration, it shall be the duty of the person so appointed to make a return in triplicate of such enumeration, showing the names of the inhabitants of such city by wards to the county clerk.

HISTORY: CL 1915, 3346;—CL 1929, 2224;—CL 1948, 115.23.

115.24 Enumerator; compensation.

Sec. 4. Any enumerator so appointed shall receive for his services a sum not exceeding 3 dollars per day for the time actually and necessarily spent in the preparation, taking and completing his work, which sum, together with his actual and necessary expenses, shall be paid by the county in the same manner as other claims are paid.

HISTORY: CL 1915, 3347;—CL 1929, 2225;—CL 1948, 115.24.

115.25 Representation by mayor.

Sec. 5. Whenever it shall appear as provided for herein that a city is only entitled to 1 representative on the board of supervisors, such city shall thenceforth be represented on said board by the mayor, who shall thereupon be vested with all the powers and duties of a member of the board of supervisors of such county.

HISTORY: CL 1915, 3348;—CL 1929, 2226;—CL 1948, 115.25.

115.26 Petition; no filing fee; validity; prosecutor, services without expense.

Sec. 6. For any proceeding taken under this act, the person filing the petition therein shall not be required to pay any fee to the county clerk, and no costs shall be taxed in such case. No petition shall be deemed invalid for want of technical preparation, and the supervisor presenting the same shall be entitled to the services of the prosecuting attorney of the county, without expense.

HISTORY: CL 1915, 3349;—CL 1929, 2227;—CL 1948, 115.26.

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CHAPTER 117. HOME RULE CITIES

HOME RULE CITIES

Act 279 of 1909

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Act 279, 1909, p. 497; Eff. Sep. 1.

AN ACT to provide for the incorporation of cities and for revising and amending their charters. Am. 1911, p. 351, Act 203, Eff. Aug. 1;—Am. 1913, p. 8, Act 5, Imd. Eff. Mar. 11.

The People of the State of Michigan enact:

117.1 Body corporate.

Sec. 1. Each organized city shall be a body corporate.

HISTORY: CL 1915, 3304;—CL 1929, 2228;—CL 1948, 117.1.

MUNICIPAL IMPROVEMENTS: See Compilers' § 123.1 et seq.

SANITATION: Supervision and regulation by department of health, see Compilers' § 325.201 et seq.

PUBLIC UTILITIES: See Act 69 of 1929, Compilers' §§ 460.501 to 460.506.

INTERSTATE BRIDGE OVER NAVIGABLE STREAM: Power to construct, see Compilers' § 254.91 et seq.

CONSTITUTIONALITY: See Const. VII, 8, 16, 21-26, 29-31.

Act 203, 1911, p. 351, which amends title and sections 2, 4, 5, 18, 19, 20, 21, 25, 28, and adds a section 37, was held unconstitutional in its entirety, in Gallup v. Saginaw, 170 Mich. 195, 135 N.W. 1060. See also Atty. Gen. v. Detroit Com. Coun., 168 Mich. 249, 133 N.W. 1090, which

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held this amendatory act to be unconstitutional in so far as it authorized amendment of existing charters in advance of general revision. Detroit Com. Council v. Engel, 187 Mich. 88, 153 N.W. 537.

FIRE PREVENTION: State fire marshal act, see Compilers' § 29.1 et seq.

STREAM: Power to construct, see Compilers' § 254.91 et seq.

CITED IN OTHER SECTIONS: Sections 117.1 to 117.38 are cited in §§ 81.1b, 123.36, 123.1007, 397.405, and 730.501a.

117.1a Definitions.

Sec. 1a. As used in this act: The phrase "having a population," or any phrase or combination of words of like import, shall be construed to mean "now or hereafter having a population of." The words "last," "latest," "preceding" or "last preceding" used in connection with a "federal" or "United States" or other census, or any words, phrases or combinations of words of like import, shall be construed to also include any such census taken after the enactment of the statute.

HISTORY: Add. 1945, p. 14, Act 15, Eff. Sept. 6;—CL 1948, 117.1a.

117.2 Saving clause.

Sec. 2. Each city now existing shall continue with all its present rights and powers until otherwise provided by law.

HISTORY: Am. 1911, p. 351, Act 203, Eff. Aug. 1;—CL 1915, 3305;—CL 1929, 2229;—CL 1948, 117.2.

Act 203 of 1911 was held unconstitutional and void, see note under Sec. 1. The section as it appears above is in the form as enacted in Act 279 of 1909. The 1911 amendment read as follows after the word "powers:" "except as herein otherwise provided" instead of "until otherwise provided by law," as appears above.

117.3 Mandatory charter provisions.

Sec. 3. Each city charter shall provide:

Mayor, election.

(a) For the election of a mayor who shall be the chief executive officer of the city, and of a body vested with legislative power, and for the election or appointment of a clerk, a treasurer, an assessor or board of assessors, a board of review and such other officers as may be deemed necessary. However, provision may be made for the selection of the mayor by the legislative body. Elections may be by a partisan, nonpartisan or preferential ballot or by any other legal method of voting.

Elective officers, nomination.

(b) For the nomination of elective officers by partisan or nonpartisan primary, by petition, or by convention.

Elections, registration.

(c) For the time, manner and means of holding elections and the registration of electors.

Officers.

(d) For the qualifications, duties and compensation of its officers.

Wards, equal representation.

(e) For the establishment of 1 or more wards and if the members of its legislative body be chosen by wards, then for equal representation for each ward in such body.

Taxation; subjects.

(f) That the subjects of taxation for municipal purposes shall be the same as for state, county and school purposes under the general law.

Taxation; levy, collection, maximum rate.

(g) For annually laying and collecting taxes in a sum not to exceed 2% of the assessed value of all real and personal property in the city. Unless and until such charter shall provide for a different tax rate limitation, the governing body of every city is authorized to levy and collect taxes for municipal purposes in a sum up to and including 1% of the assessed value of all real and personal property in the city, subject to the provisions of section 1a of chapter 7 of Act No. 202 of the Public Acts of 1943, as amended, being section 137.1a of the Compiled Laws of 1948.

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Annual appropriation.

(h) For an annual appropriation of money for municipal purposes.

Tax procedure.

(i) For the levy, collection and return of state, county and school taxes in conformity with the general laws of the state, except that the preparation of the assessment roll, the meeting of the board of review, and the confirmation of the assessment roll may be at such times as shall be provided in the city charter.

Public peace, health and safety.

(j) For the public peace and health and for the safety of persons and property.

Ordinances, adoption of codes, publication, procedure, inspection.

(k) For adopting, continuing, amending and repealing the city ordinances and for the publication of all ordinances before they become operative. Each city shall have power, whether so provided in its charter or not, to adopt any law, code, rules or regulations which have been promulgated and adopted by any duly authorized agency of the state of Michigan pertaining to fire, fire hazards, fire prevention or fire waste, and any fire prevention code, plumbing code, heating code, electrical code, building code, refrigeration machinery code, piping code, boiler code, boiler operation code or elevator machinery code, or codes pertaining to flammable liquids and gases as well as to hazardous chemicals, which have been promulgated by the state of Michigan, or by any department, board, or other agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such code or codes, by reference thereto in an adopting ordinance and without publishing any such code in full. Any such code shall be clearly identified in the ordinance and its purpose shall be published with the adopting ordinance and printed copies thereof shall be kept in the office of the city clerk, available for inspection by and distribution to the public at all times. The publication shall contain a notice to the effect that a complete copy of the code is available for public use and inspection at the office of the city clerk.

Legislative body sessions; records.

(l) That all sessions of the legislative body and all records of the municipality shall be public.

Same; journal.

(m) For keeping in the English language a written or printed journal of every session of the legislative body.

System of accounts.

(n) For a system of accounts which shall conform to such uniform system as may be required by law.

HISTORY: CL 1915, 3006;—Am. 1929, p. 285, Act 126, Eff. Aug. 28;—CL 1929, 2230;—Am. 1947, p. 646, Act 344, Eff. Oct. 11;—Am. 1948, 1st Ex. Ses., p. 103, Act 44, Eff. Aug. 20;—CL 1948, 117.3;—Am. 1949, p. 35, Act 43, Eff. Sep. 23;—Am. 1960, p. 13, Act 14, Imd. Eff. Apr. 13;—Am. 1967, p. 61, Act 43, Eff. Nov. 2.

NOTE: Act 202, 1943, above referred to, is Compilers' § 131.1 et seq.

BOARD OF HEALTH: In cities, see Compilers' § 327.49.

GENERAL TAX LAW: See Compilers' § 211.1 et seq.

Sec. 4.

HISTORY: Am. 1911, p. 351, Act 203, Eff. Aug. 1;—Am. 1913, p. 8, Act 5, Imd. Eff. March 11;—Am. 1915, p. 356, Act 210, Imd. Eff. May 13;—CL 1915, 3307;—Am. 1917, p. 16, Act 6, Imd. Eff. March 9;—Am. 1917, p. 64, Act 40, Eff. Aug. 10;—Am. 1917, p. 493, Act 232, Imd. Eff. May 10;—Am. 1919, p. 445, Act 252, Eff. Aug. 14;—Am. 1921, p. 309, Act 147, Imd. Eff. May 11;—Am. 1921, p. 633, Act 348, Imd. Eff. May 18;—Am. 1921, 2nd Ex. Ses., p. 824, Act 5, Imd. Eff. July 25;—Am. 1923, p. 166, Act 119, Imd. Eff. May 2, and subds. Y and Z added;—Am. 1925, p. 323, Act 224, Imd. Eff. May 6;—Am. 1927, p. 245, Act 156, Eff. Sept. 5, and subd. Z-1 added;—Rep. 1929, p. 295, Act 126, Eff. Aug. 28.

Sec. 4 dealt with permissible charter provisions, which are now to be found in Secs. 4-a to 4-j immediately following.

117.4a Permissible charter provisions.

Sec. 4-a. Each city may in its charter provide:

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Borrowing power; generally.

(1) For the borrowing of money on the credit of the city and issuing bonds therefor, for any purpose within the scope of its powers: Provided, That the net bonded indebtedness incurred for all public purposes shall not at any time exceed 10 per centum of the assessed value of all the real and personal property in the city: Provided further, That in case of fire, flood or other calamity, the legislative body may borrow for the relief of the inhabitants of the city and for the preservation of municipal property, a sum not to exceed 3/8 of 1 per centum of the assessed value of all the real and personal property in the city, due in not more than 5 years, even if such loan would cause the indebtedness of the city to exceed the limit fixed in its charter: Provided further, That in computing the net bonded indebtedness for the purposes hereof, bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city, mortgage bonds which are secured only by a mortgage on the property or franchise of a public utility, and bonds issued to refund moneys advanced or paid on special assessments for water main extensions, shall not be included, and the resources of the sinking fund pledged for the retirement of any outstanding bonds, shall also be deducted from the amount of the bonded indebtedness;

Same; anticipatory to special assessments.

(2) For the borrowing of money and issuing bonds therefor in anticipation of the payment of special assessments, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the city.

HISTORY: Add. 1921, p. 644, Act 353, Eff. Aug. 18;—Am. 1927, p. 845, Act 351, Eff. Sept. 5;—Am. 1929, p. 286, Act 126, Eff. Aug. 28;—CL 1929, 2231;—Am. 1932, 1st Ex. Ses., p. 26, Act 14, Imd. Eff. April 29;—CL 1948, 117.4a.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

117.4b Permissible charter provisions.

Sec. 4-b. Each city may in its charter provide:

Refund of money advanced; bonds.

(1) For refunding money advanced or paid on special assessments imposed, for water main extensions; for borrowing money through its legislative body on the faith and credit of the city, to provide for such refunding from time to time as buildings shall be connected with such water main extensions; and for the issuance of bonds therefor due in not more than 30 years in an amount and at the rate of interest limited by the charter of such city;

Sewers; water-works.

(2) For the installation and connection of sewers and waterworks on and to property within the city; for assessing the cost thereof to the several properties and making the same a lien thereon; and for the borrowing of money and issuing bonds in anticipation of the collection of such special assessments;

Lighting.

(3) For the installation and connection of conduits for the service of municipally owned and operated electric lighting plants; and for the borrowing of money and issuing the bonds of the city therefor, for the purpose of providing the first cost of such installation and connection.

HISTORY: Add. 1927, p. 412, Act 209, Imd. Eff. May 20;—Am. 1929, p. 286, Act 126, Eff. Aug. 28;—CL 1929, 2232;—CL 1948, 117.4b.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

117.4c Permissible charter provisions.

Sec. 4-c. Each city which is authorized to acquire, own, purchase, construct or operate any public utility, may provide in its charter for the issuance of mortgage bonds therefor beyond the general limit of the bonded indebtedness prescribed by law, provided that such mortgage bonds issued beyond the general limit of bonded indebted-

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ness prescribed by law shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than 20 years from the date of the sale of such utility and franchise on foreclosure. Such mortgage bonds shall be sold to yield not to exceed 6 per centum per annum. The charter shall also provide for the creation of a sinking fund in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity.

HISTORY: Add. 1927, p. 538, Act 287, Imd. Eff. May 31;—Am. 1929, p. 187, Act 126, Eff. Aug. 28;—CL 1929, 2233;—CL 1948, 117.4c.
NOTE: See also Sec. 4f, subd. 1, of this act.

117.4d Permissible charter provisions.

Sec. 4d. Each city may in its charter provide:

Public improvement costs, special assessment.

(1) For assessing and reassessing the costs or any portion thereof, of any public improvement to a special district;

Boulevard lighting system, abutting lands.

(2) For assessing the cost or any portion thereof, of installing a boulevard lighting system on any street upon the lands abutting thereupon.

Cost, included items.

"Cost" as used in this section includes necessary condemnation cost and necessary expenses incurred for engineering, financial, legal, administrative and other services involved in the making and financing of the improvement and the levying and collecting of the special assessments therefor. Where any such service is rendered by city employees, the city may include the fair and reasonable cost of rendering the service. The inclusion of any cost specified in this paragraph as part of the cost of an improvement for which special assessments have heretofore been levied is validated.

HISTORY: Add. 1929, p. 287, Act 126, Eff. Aug. 28;—CL 1929, 2234;—CL 1948, 117.4d;—Am. 1961, p. 153, Act 124, Eff. Sep. 8;—Am. 1964, p. 32, Act 27, Imd. Eff. Apr. 29.

117.4e Permissible charter provisions.

Sec. 4e. Each city may in its charter provide:

Public buildings, grounds, acquisition.

(1) For the acquisition by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, of the following improvements including the necessary lands therefor, viz.: City hall, police stations, fire stations, boulevards, streets, alleys, public parks, recreation grounds, municipal camps, public grounds, zoological gardens, museums, libraries, airports, cemeteries, public wharves and landings upon navigable waters, levees and embankments, watch-houses, city prisons and work houses, penal farms, institutions, hospitals, quarantine grounds, electric light and power plants and systems, gas plants and systems, waterworks plants and systems, sewage disposal plants and systems, market houses and market places, office buildings for city officers and employees, public works, and public buildings of all kinds; and for the costs and expenses thereof;

Condemnation.

(2) For the acquisition by purchase, gift, condemnation, lease or otherwise of private property, either within or without its corporate limits and either within or without the corporate limits of the county in which it is located, for any public use or purpose within the scope of its powers, whether herein specifically mentioned or not. If condemnation proceedings are resorted to for the acquisition of private property outside the corporate limits of such city, such condemnation proceedings may be brought

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under the provisions of Act No. 149 of the Public Acts of 1911, as amended or as may be amended, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public and to define the terms 'public corporations', 'state agencies' and 'private property' as used herein," being sections 353 to 373 inclusive of the Compiled Laws of 1915, or such other appropriate provisions therefor as exist or shall be made by law;

Property, lease, sale, etc.

(3) For the maintenance, development, operation, of its property and upon the discontinuance thereof to lease, sell or dispose of the same subject to any restrictions placed thereupon by law: Provided, That on the sale of any capital asset of a municipally owned utility the money received shall be used in procuring a similar capital asset, or placed in the sinking fund to retire bonds issued for said utility.

HISTORY: Add. 1929, p. 287, Act 126, Eff. Aug. 28;—CL 1929, 2235;—CL 1948, 117.4e;—Am. 1949, p. 221, Act 207, Eff. Sep. 23.
COST-PLUS CONTRACTS: Prohibited in certain cases, see Compilers' §§ 17.41 and 17.42.
NOTE: Act 149 of 1911 above referred to, is Compilers' §§ 213.21 to 213.41.

117.4f Permissible charter provisions.

Sec. 4f. Each city may in its charter provide:

Public utilities, acquisition, contracts, referendum, procedure, civil service, tax exemption.

(1) For the purchase or condemnation of the franchises, if any exist, and of the property used in the operation of companies or individuals engaged in the plank road, cemetery, hospital, almshouse, electric light, gas, heat, water and power business, and in cities having not less than 25,000 inhabitants the purchase of the franchise, if any, and the property of street railway and tram railway companies. And each city may in its charter provide that it may make a contract, upon such terms, including terms of present or deferred payment, and upon such conditions and in such manner as the municipality may deem proper, to purchase, operate and maintain any existing public utility property for supplying water, heat, light, power or transportation to the city and the inhabitants thereof. No such contract shall bind the municipality unless the proposition therefor shall receive the affirmative vote of 3/5 of the electors voting thereon at a regular or special election. In the event of any such purchase of a transportation utility, the charter amendment and the contract to purchase may provide for the creation of a sinking fund, into which shall be paid from time to time, from the earnings of the utility, sums sufficient to insure the payment of the purchase price and the performance of the obligations of said contract, to the end that the entire cost of such public utility shall eventually be paid from its earnings. Within a reasonable time after the acquisition of a public transportation utility the officials in charge of the operation shall establish a system of civil service for the selection and retention of its employees. When a vote is taken to amend a city charter for the purpose of acquiring any of the above mentioned powers, a vote may also, by direction of the legislative body of the city, be taken at the same election upon a proposition to make a particular contract within the scope of said proposed amendment: Provided, That the vote upon the charter amendment and upon the proposition to purchase shall be upon separate ballots. When a transportation utility is so acquired, state taxes shall be paid thereon as if privately owned, also local taxes on any portion of such property lying outside of the city limits. The powers in this subdivision contained shall be in addition to the powers provided for in the other subdivisions of this section, and the exercise thereof shall not impair or affect the right to exercise any of the powers in the other subdivisions of this section conferred;

Transportation facilities.

(2) For owning, constructing and operating transportation facilities within its limits, and its adjacent and adjoining suburbs within a distance of 10 miles from any portion

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of its city limits, if according to the next preceding United States census, or local census taken by authority of a resolution of the legislative body of such city, it had a population not less than 25,000 inhabitants;

Water, light, heat, power, transportation; referendum; service outside corporate limits.

(3) For the purchase and condemnation of private property for any public use or purpose within the scope of its powers; also for the acquirement, ownership, establishment, construction and operation, either within or without its corporate limits, of public utilities for supplying water, light, heat, power and transportation to the municipality and the inhabitants thereof, for domestic, commercial and municipal purposes; and for the sale and delivery of heat, power and light without its corporate limits to an amount not to exceed 25% of that furnished by it within its corporate limits for like purposes; and for the sale and delivery of water outside of its corporate limits in such amount as may be determined by the legislative body of the city; and for the operation of transportation lines without the municipality and within 10 miles from its corporate limits: Provided, That the right to own or operate such transportation facilities shall not extend to any city of less than 25,000 inhabitants according to the last preceding United States census, or local census taken by authority of a resolution of the legislative body of such city. The acquirement of any such utility together with all properties, franchises, and rights necessary for its establishment, ownership, construction, operation, improvement, extension and maintenance, whether such properties, franchises and rights are situated within or without the corporate limits of such city, may be either by purchase or condemnation. If by condemnation, the provisions of Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or such other appropriate provisions therefor as exist, or shall be made by law, may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings: Provided, however, That no such public utility shall be so acquired unless the proposition to do so shall have first received the affirmative vote of 3/5 of the electors of such city voting thereon, at a regular or special municipal election;

Sewage disposal system.

(4) For the acquiring, establishment, operation, extension and maintenance of sewage disposal systems, sewers and plants, either within or without the corporate limits of such city, as a utility, including the right to acquire property necessary therefore, by purchase, gift or condemnation, and including the fixing and collecting of charges for service covering the cost of such service, the proceeds whereof shall be exclusively used for the purposes of said sewage disposal system, and which may include a return on the fair value of the property devoted to such service, excluding from such valuations such portions of the system as may have been paid for by special assessment, and which charge may be made a lien upon the property served and if not paid when due, to be collected in the same manner as other city taxes.

HISTORY: Add. 1927, p. 880, Act 367, Eff. Sep. 5;—Am. 1929, p. 288, Act 126, Eff. Aug. 28;—CL 1929, 2236;—CL 1948, 117.4f.—Am. 1955, p. 24, Act 26, Eff. Oct. 14;—Am. 1965, p. 152, Act 116, Imd. Eff. Jul. 2.

117.4g Permissible charter provisions.

Sec. 4-g. Each city may in its charter provide:

Rapid transit system; acquisition procedure; bonds; taxation.

(1) For the acquisition by construction, condemnation or purchase and for the ownership, equipment, possession, leasing, operation and maintenance of a rapid transit system consisting of a tunnel, subway, surface or elevated system or any combination and qualification of these, in and through said city, and for a distance of not more than 10 miles beyond its limits, for the purpose of furnishing transportation facilities to the

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municipality and to the people thereof; for the preparation and publication of plans for such construction, equipment and maintenance in accordance with charter provisions adopted hereunder; for the operation of such facilities independently or in connection with other transportation facilities, or transportation system, owned, operated or controlled by such city or existing therein, or in the territory in which any such rapid transit system is established; for the appropriate designation of such facilities; for the taking of the fee of or easement or right of way on, under, above and through any property for the purposes thereof, by gift, grant and purchase, and by condemnation proceedings in accordance with any law of the state of Michigan providing therefor; and for the management of such facilities, for the purposes for which the same are or may be acquired or constructed. Provision may also be made for the execution of contracts incidental to the carrying out of the purposes hereby contemplated. In the event that property is taken by condemnation under any statute pertaining thereto, the actual benefits accruing to or received by a remainder of any such parcel on account of the construction of the improvement shall be taken into account in determining the damages to be awarded by way of compensation to the owner or owners of such property. The charter shall also provide for the proper financing of the acquisition and construction of any such system and facilities by direct taxation, special assessments on the basis of benefits actually and exclusively received by property affected by any such improvement, or by borrowing money and issuing bonds or other evidence of indebtedness therefor, or by a combination of such methods; and for the defraying of the cost of maintenance, operation and management of such facilities and for payment of interest on and a sinking fund to retire any bonds issued under this subsection, from the revenues received as a result of the operation thereof by the city. Bonds executed and sold for the purpose of raising money to cover the cost of such acquisition and construction may be issued on the faith and credit of the city or same may be secured by mortgage on the property and revenues of the utility established pursuant hereto. The aggregate amount of bonds issued on the faith and credit of the city under this subsection shall not exceed 2 per cent of the assessed valuation of the taxable property within said city for the preceding fiscal year; and in computing the total indebtedness of the city for the purpose of determining whether any other limitation prescribed by law has been exceeded, such bonds shall not be included. Except as is in this subsection otherwise specifically provided, all bonds issued by a city for the purposes hereby contemplated shall be subject to the restrictions and conditions prescribed in section 4-a of this act. In case provision is made in the charter for raising money by direct taxation for the purposes hereof, the amount of such tax levied and assessed in any year shall not exceed 1/6 of 1 per cent of the assessed valuation of the city for such year; and the amount of any such tax shall not be subject to any other limitations prescribed by law, or considered in determining whether any such limitation has been exceeded. In no case shall more than 60 per cent of the total estimated cost of acquiring or constructing any such rapid transit system or portion of extension thereof, be raised by direct taxation, and by the issuance of bonds on the faith and credit of the city. As incidental to the authority hereby granted, provision may be made in any city charter for the exercise of powers incidental to the accomplishment of the purposes hereof, and reasonably calculated and designed to facilitate the furnishing of adequate transportation facilities by the means aforesaid to the municipality and the people thereof. No charter amendment or amendments, contemplating and providing for the exercise of the powers referred to in this subsection, shall be submitted to a vote of the electors unless and until the same shall have been published pursuant to the direction of the legislative body of the city, in at least 1 newspaper having a general circulation in such city at least once each week for 3 weeks in succession during the 30 day period immediately preceding the date of the election; and no plan for construction and operation

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of any rapid transit system shall be put into effect unless the same shall first have been submitted to the qualified electors of the city and approved thereby. Such submission of plan shall be made subsequent to the enactment of said charter amendments either at a general election or a special election called for that purpose by the legislative body of the city. Such contemplated plan shall, before its submission, and as a condition prerequisite thereto, be published once each week for 6 weeks in succession in some daily newspaper having a general circulation within the city, during the 60-day period immediately preceding the date of submission to the electors; and the contemplated plan as so published shall specify the route or routes of the proposed rapid transit system, the type of construction proposed for the various sections or parts thereof, the method or methods for financing the improvement, the order in which the various sections or parts are to be constructed or acquired, the system of management to be adopted, the estimated cost of the various sections or parts of the system, and such other matters as the legislative body of the city shall require: Provided, however, That the financial plan so submitted shall not permit special assessments against any property in excess of actual benefits, meaning increased value, accruing exclusively as a result of said improvement; and the payment of such special assessments made under this subsection, shall be prorated over a period of not less than 10 years.

Contracts with other municipalities.

(2) For negotiating, executing and performing contracts with any other municipality or municipalities, duly authorized and empowered to that end, with reference to the construction, equipment, operation, maintenance and management of a rapid transit system and facilities, and for the financing of any obligations, assumed under or imposed by any such contract. The grants, limitations and restrictions set forth in the preceding subsection of this section shall be deemed applicable to, and shall be observed in the adoption of, charter provisions and amendments hereunder and in the exercise of the authority hereby granted.

HISTORY: Add. 1929, p. 290, Act 126, Eff. Aug. 28;—CL 1929, 2237;—CL 1948, 117.4g.

CONDEMNATION: See Compilers' § 213.1 et seq. and notes thereto and especially Compilers' § 213.21 et seq.

117.4h Permissible charter provisions.

Sec. 4-h. Each city may in its charter provide:

Public ways.

(1) For the use, regulation, improvement and control of the surface of its streets, alleys and public ways, and of the space above and beneath them;

Public ways and places, use by public utility.

(2) For the use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;

Street and alley plan.

(3) For a plan of streets and alleys within and for a distance of not more than 3 miles beyond its limits;

Water courses.

(4) For the use, control and regulation of streams, waters and water courses within its boundaries, but not so as to conflict with the law or action thereunder where a navigable stream is bridged or dammed; or with riparian or littoral rights without their corporate limits;

Easement along navigable stream; acquisition.

(5) For securing by condemnation, by agreement or purchase, or by any other means, an easement in property abutting or adjacent to any navigable stream, for the purpose of securing the privilege and right to construct, own and maintain along or

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adjacent to any navigable stream an elevated structure of 1 or more levels for use as vehicular or pedestrian passageway, or for any other municipal purpose;

Parking of vehicles; facilities, charges.

(6) For the acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise the land necessary therefor;

Docking of watercraft and hydroplanes; facilities, charges.

(7) For the acquiring, constructing, establishment, operation, extension and maintenance of facilities for the docking of pleasure water crafts and/or hydroplanes within its corporate limits, including the fixing and collection of charges for use thereof, and for such purpose or purposes to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor.

HISTORY: Add. 1929, p. 292, Act 126, Eff. Aug. 28;—CL 1929, 2238;—Am. 1931, p. 486, Act 295, Imd. Eff. June 8;—CL 1948, 117.4h.
CONDEMNATION: See Compilers' § 213.1 et seq., and especially Compilers' § 213.21.

117.4i Permissible charter provisions.

Sec. 4i. Each city may in its charter provide:

Rents, tolls, excises.

(1) For laying and collecting rents, tolls and excises.

Gasoline stations.

(2) For regulating and restricting the locations of oil and gasoline stations.

Zoning, annexation.

(3) For the establishment of districts or zones within which the use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings and the density of population may be regulated by ordinance. Such regulations in 1 or more districts may differ from those in other districts. Whenever any city is incorporated, or whenever territory is annexed to any city incorporated pursuant to the provisions of this act, the then existing zoning regulations for the territory within the newly incorporated city or for the annexed territory, shall remain in full force and effect for a period of 2 years after incorporation or annexation, unless the legislative body of the city shall lawfully adopt other zoning regulations or ordinances.

Trades, occupations, amusements; regulation, prohibition.

(4) For the regulation of trades, occupations and amusements within its boundaries, not inconsistent with state and federal laws, and for the prohibition of such trades, occupations and amusements as are detrimental to the health, morals or welfare of its inhabitants.

Billboards.

(5) For licensing, regulating, restricting and limiting the number and locations of billboards within the city.

Initiative, referendum, recall.

(6) For the initiative and referendum on all matters within the scope of its powers and for the recall of all of its officials.

Civil service.

(7) For a system of civil service for its employees including the employees of any city board of health and the employees of any prison operated or maintained by it. Charter provisions heretofore or hereafter adopted providing for a system of civil service for employees of any local health board shall be valid and effective.

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Disability, injury, death of employees; compensation to employees or dependents.

(8) For a system of compensation for its employees and their dependents in the case of disability, injury or death of such employees.

Regulations, enforcement.

(9) For the enforcement of all such local, police, sanitary and other regulations as are not in conflict with the general laws.

Violation of laws or ordinances.

(10) For the punishment of those who violate its laws or ordinances, but no punishment shall exceed a fine of $500.00 or imprisonment for 90 days, or both, in the discretion of the court; said imprisonment may be in the county jail or city prison, or in any workhouse in the state authorized by law to receive prisoners from such city.

HISTORY: Add. 1929, p. 293, Act 126, Eff. Aug. 28;—CL 1929, 2239;—Am. 1937, p. 592, Act 309, Eff. Oct. 29;—Am. 1939, p. 335, Act 175, Eff. Sep. 29;—Am. 1941, p. 10, Act 10, Imd. Eff. Mar. 5;—Am. 1941, p. 492, Act 283, Imd. Eff. Jun. 17;—CL 1948, 117.4i;—Am. 1957, p. 149, Act 131, Imd. Eff. May 25;—Am. 1963, p. 228, Act 166, Eff. Sep. 6.

ZONING: See Compilers' § 125.581 et seq.

117.4j Permissible charter provisions.

Sec. 4-j. Each city may in its charter provide:

City departments.

(1) For the establishment of any department that it may deem necessary for the general welfare of the city, and for the separate incorporation thereof: Provided, however, That these provisions shall not be construed to extend to and include public schools;

Special acts.

(2) For altering, amending or repealing any special act affecting any municipal concerns or existing municipal department, but the department in control of the public schools shall not be construed to be a municipal department;

Municipal powers.

(3) For the exercise of all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; for any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants and through its regularly constituted authority to pass all laws and ordinances relating to its municipal concerns subject to the constitution and general laws of this state.

HISTORY: Add. 1929, p. 293, Act 126, Eff. Aug. 28;—CL 1929, 2240;—CL 1948, 117.4j.

CONDEMNATION: See Compilers' § 213.1 et seq., and especially Compilers' § 213.21 et seq.

117.5 Powers of city; limitations.

Sec. 5. No city shall have power:

Rate of taxation.

(a) To increase the rate of taxation now fixed by law, unless the authority to do so shall be given by a majority of the electors of said city voting at the election at which said proposition shall be submitted, but the increase in any case shall not be such as to cause such rate to exceed 2%, except as provided in subsection 5 (e), of the assessed value of the real and personal property in such city.

Submission of charter to electors.

(b) To submit to the electors a charter oftener than once in every 2 years, nor unless it shall be filed with the city clerk 60 days before the election, but this provision shall not apply to the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter. Where a city shall have submitted to the electors a charter and said charter has been adopted by the electors, and said city has operated under said charter, and which said charter had not, at the time said charter was adopted, been on file with the city clerk 60 days, as pro-

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vided herein, then in such case the legislative body of such city, operating under said charter, may, upon its giving such notice of election provided in said charter resubmit to the electors, at any special or general election, such charter and which if adopted by the electors shall be deemed operative and effective as of the date of the first submission and adoption. Such charter shall not be resubmitted unless 60 days shall have elapsed between the date of the filing of said charter and the date of the election at which said charter shall be resubmitted.

Special elections, number.

(c) To call more than 2 special elections within 1 year. This prohibition shall not apply to elections which may be held in the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter, and shall not apply to elections which may be held in the resubmission of a charter once adopted as provided in subdivision (b) of this section.

Salaries, change during term prohibited; exception; change of term.

(d) To change the salary or emoluments of any public official after his election or appointment or during his term of office, except that the salary of a municipal judge may be increased but not decreased after his election or appointment or during his term of office notwithstanding any charter provision to the contrary; nor shall the term of any public official be shortened or extended beyond the period for which he was elected or appointed, unless he resign or be removed for cause, where such office is held for a fixed term.

Electors approval required; exceptions.

(e) To adopt a charter or any amendment thereto, unless approved by a majority of the electors voting thereon; to sell any park, cemetery or any part thereof, except where such park is not required under an official master plan of the city, or to engage in any business enterprise requiring an investment of money in excess of 10 cents per capita or authorize any issue of bonds except bonds issued in anticipation of the collection of taxes actually levied and uncollected or for which an appropriation has been made, bonds which the city is authorized by its charter to issue as part of its budget system, to an amount which in any year, together with the taxes levied for the same year, will not exceed the limit of taxation authorized by law, special assessment bonds, bonds for the city's portion of local improvements, refunding bonds and emergency bonds as defined by this act, unless approved by a majority of the electors voting thereon at any general or special election: Provided, however, That in addition to the foregoing, any city which now has or which may hereafter have a population of 750,000 persons or more may issue bonds, upon resolution of its governing body, without prior approval of the electors, which the city is authorized by its charter to issue as part of its budget system, to an amount which in any year, together with the taxes levied for the same year, will not exceed 2 ½% of the assessed value of the real and personal property in the city, this limitation to supersede and take the place of any contrary language in any existing city charter. Notwithstanding the former provisions of this subsection requiring approval by 3/5 of the electors voting thereon as a prerequisite to the exercise of certain powers, any such powers may be exercised if approved by a majority of the electors voting thereon at any general or special election held on or after April 1, 1966.

Contracts with person in default.

(f) To make any contract with, or give any official position to one who is in default to the city.

Sinking funds for bonds; vote required.

(g) To issue any bonds without providing a sinking fund to pay them at maturity, except as provided in section 4g, subdivision 1 hereof, but no sinking funds shall be re-

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quired in the case of serial bonds which fall due annually; and no bonds, whether authorized under the provisions of this act or any other act, except refunding bonds and revenue bonds which any municipality has heretofore legally contracted to issue and deliver, shall be authorized by any resolution or ordinance of the legislative body of such city unless notice thereof is published in a newspaper of general circulation in the city at least 30 days prior to the adoption of any such resolution or ordinance, within which period a petition may be filed with the legislative body signed by not less than 10% of the registered electors in such city, in which event said legislative body shall submit the question of the issuance of such bonds to the electors of such city, at any regular or special election in such city, and such bonds shall not be authorized and issued unless a majority vote of the electors voting thereon shall vote in favor thereof.

Debts, repudiation prohibited.

(h) To repudiate any debt by any change in its charter or by consolidation with any other municipality.

Franchise, submission at special election.

(i) To submit a franchise to the electors at a special election, unless the expense of holding the election as determined by the legislative body shall be paid in advance to the city treasurer by the grantee in said franchise.

HISTORY: Am. 1911, p. 354, Act 203, Eff. Aug. 1;—CL 1915, 3308;—Am. 1917, p. 21, Act 6, Imd. Eff. Mar. 9;—Am. 1919, p. 428, Act 240, Eff. Aug. 14;—Am. 1923, p. 176, Act 119, Imd. Eff. May 2;—Am. 1929, p. 294, Act 126, Eff. Aug. 28;—CL 1929, 2241;—Am. 1935, p. 406, Act 239, Imd. Eff. Jun. 8;—Am. 1941, p. 68, Act 60, Eff. Jan. 10, 1942;—Am. 1948, 1st Ex. Ses., p. 104, Act 44, Eff. Aug. 20;—CL 1948, 117.5;—Am. 1949, p. 222, Act 207, Eff. Sep. 23;—Am. 1965, p. 95, Act 65, Eff. Mar. 31, 1966;—Am. 1966, p. 56, Act 32, Imd. Eff. May 17;—Am. 1966, p. 665, Act 350, Imd. Eff. Dec. 21;—Am. 1969, p. 84, Act 41, Imd. Eff. Jul. 17.

CITED IN OTHER SECTIONS: The above section is cited in §§ 123.247, 125.1262, and 600.6097.

117.5a Membership in certain societies not to affect employment.

Sec. 5a. No city shall have power to deny employment to any person for the reason that he is a member of any society which is incorporated under the laws of this state, the membership of which is composed solely of law enforcement officers, unless same is contrary to his oath of office.

HISTORY: Add. 1952, p. 371, Act 225, Eff. Sep. 18;—Am. 1965, p. 437, Act 260, Eff. Mar. 31, 1966.

117.5b Code of municipal ordinances; publication.

Sec. 5b. Each city shall have power, whether provided in its charter or not, to codify, recodify and continue in code its municipal ordinances, in whole or in part, without the necessity of publishing the entire code in full. The ordinance adopting the code, as well as subsequent ordinances repealing, amending, continuing or adding to the code, shall be published as required by law. The ordinance adopting the code may amend, repeal, revise or rearrange ordinances or parts of ordinances by reference by title only.

HISTORY: Add. 1960, p. 36, Act 46, Imd. Eff. Apr. 19.

117.6 Incorporation, consolidation or alteration of boundaries; petition, signatures, deposit, enumeration.

Sec. 6. Cities may be incorporated or territory detached therefrom or added thereto, or consolidation made of 2 or more cities or villages into 1 city, or of a city and 1 or more villages into 1 city, or of 1 or more cities or villages together with additional territory not included within any incorporated city or village into 1 city, by proceedings originating by petition therefor signed by qualified electors who are freeholders residing within the cities, villages or townships to be affected thereby, to a number not less than 1% of the population of the territory affected thereby according to the last preceding United States census, or according to a census to be taken as hereinafter provided, which number shall be in no case less than 100, and not less than 10 of the signatures to such petition shall be obtained from each city, village or township to be affected by the proposed change: Provided, That in the incorporation of a city from an existing village without change of boundaries the requisite number of signatures may

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be obtained from throughout the village without regard to the townships in which the signers are residents: Provided further, That as an alternate method in the case of an annexation proceeding in which there are less than 10 persons qualified to sign the petition living in that unincorporated territory of any township or townships proposed to be annexed to a city, that the signatures on the petition of persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold record legal title to more than 1/2 of the area of the land exclusive of streets, in the territory to be annexed at the time of filing the petition, will suffice in lieu of obtaining 10 signatures from the township in which such area to be annexed lies: And provided further, That on such petition each signature shall be followed by a description of the land and the area represented thereby and a sworn statement shall also accompany such petition giving the total area of the land, exclusive of streets, lying within the area proposed to be annexed: Provided further, That before any signatures are obtained on a petition as hereinbefore provided, such petition shall have attached to it a map or drawing showing clearly the territory proposed to be incorporated, detached, or added, and each prospective signer shall be shown such map or drawing before signing the petition. Such petition shall be verified by the oath of 1 or more petitioners. The county clerk upon the presentment of a petition for incorporation of a new city for filing shall forthwith estimate all necessary expense that may be incurred by the county in the incorporation proceedings, and the clerk thereupon shall require that the sum so estimated, which in no case shall exceed $500.00, be deposited with him and shall refuse to accept the petition for filing until the sum is so deposited: Provided, That in proceedings for the incorporation of a new city or the consolidation of 2 or more cities or villages into 1 city, or of a city and 1 or more villages into 1 city or of 1 or more cities or villages together with additional territory not included within any incorporated city or village into 1 city, a petition signed by not less than 100 qualified electors who are freeholders residing within the territory so proposed to be incorporated or consolidated, praying for the taking of a census of the inhabitants of the territory affected thereby, may be filed with the county clerk of the county within which said territory is located. The county clerk shall, within 5 days after the filing of such petition, certify to the mayor of each city, president of each village and supervisor of each township affected thereby, and to the secretary of state that such petition has so been filed. Within 5 days after the service of such certificate, the secretary of state shall appoint an enumerator or enumerators to enumerate the inhabitants of each such city, village, and the portion of each township proposed to be so incorporated, or a consolidation made thereof. Before entering upon the duties of his said office, each such enumerator shall take and subscribe to the constitutional oath of office before some officer authorized to administer oaths and file the same with the secretary of state and with the county clerk of the county in which such territory is located. It shall be the duty of each enumerator so appointed to enumerate all of the bona fide inhabitants of such city, village or township, territory or portion thereof to him assigned by the secretary of state and to visit each house or dwelling and to obtain the names of each known resident thereof. The city, village or township within which the services of the enumerator are rendered shall pay for such services together with any actual and necessary expenses incurred by the enumerator. The rate of pay and actual and necessary expenses of the enumerator shall be set by the governing body of the city, village or township in which the census takes place. Upon completing such enumeration it shall be the duty of the persons so appointed to make a return in duplicate of such enumeration showing the names of the inhabitants of each such city, village or township, territory or district to the county clerk and to the secretary of state. No such enumeration or census shall be conducted in any city, village or township, or portion thereof, within 2 years of the date of the last enumeration in such territory. Every such

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enumeration shall be conducted under the general supervision and control of the secretary of state who is hereby empowered to make rules and regulations for the purpose of carrying out the provisions of this act.

HISTORY: CL 1915, 3309;—Am. 1919, p. 151, Act 84, Eff. Aug. 14;—CL 1929, 2242;—Am. 1931, p. 520, Act 314, Imd. Eff. Jun. 16;—Am. 1939, p. 437, Act 231, Eff. Sep. 29;—Am. 1947, p. 629, Act 334, Eff. Oct. 11;—CL 1948, 117.6;—Am. 1956, p. 159, Act 77, Eff. Aug. 11;—Am. 1957, p. 286, Act 210, Eff. Sep. 27.

CITED IN OTHER SECTIONS: The above section is cited in §§ 42.1 and 247.663.

117.7 Incorporation, consolidation or alteration of boundaries; fifth class cities; population requisites; representation on board of supervisors.

Sec. 7. Said petition shall accurately describe the proposed boundaries of the city, or of the territory to be annexed thereto or detached therefrom, and if the purpose is to incorporate a new city, it shall represent that the territory described contains not less than 2,000 inhabitants and an average of not less than 500 inhabitants per square mile: Provided, That all incorporated villages in which a county seat is located are hereby authorized to incorporate under the provisions of this act as cities of the fifth class, without respect to the population of the territory included therein: Provided further, That any incorporated village having a population of more than 750 and less than 2,000 inhabitants, or any incorporated village lying within more than 1 township in the same county having a population of more than 600 and less than 2,000 inhabitants, or any territory containing a population of more than 750 and less than 2,000 inhabitants and an average of not less than 500 inhabitants per square mile may incorporate under the provisions of this act as cities of the fifth class. Such cities shall constitute but 1 voting precinct except in cities lying within more than 1 county and the mayor thereof, or whenever provided by resolution of the legislative body of any such city, the city attorney, city manager, or city superintendent shall be among the representatives of the city on the board of supervisors of the county or counties: Provided further, Whenever in the process of incorporating a city of the fifth class and adopting a charter therefor, it shall be disclosed by an official census that the population exceeds 2,000 inhabitants, then all proceedings theretofore taken shall be deemed to be for a non fifth class city under this act.

HISTORY: CL 1915, 3310;—Am. 1917, p. 721, Act 286, Eff. Aug. 10;—Am. 1923, p. 307, Act 198, Eff. Aug. 30;—Am. 1927, p. 561, Act 303, Imd. Eff. Jun. 1;—CL 1929, 2243;—Am. 1947, p. 100, Act 91, Eff. Oct. 11;—CL 1948, 117.7;—Am. 1951, p. 42, Act 40, Eff. Sep. 28;—Am. 1953, p. 214, Act 175, Eff. Oct. 2;—Am. 1955, p. 37, Act 33, Eff. Oct. 14.

117.8 Incorporation, consolidation or alteration of boundaries; petition, filing, referendum; resolution.

Sec. 8. Said petition shall be addressed to the board of supervisors of the county in which the territory to be affected by such proposed incorporation, consolidation or change of boundaries is located, and shall be filed with the clerk of said board not less than 30 days before the convening of such board in regular session, or in any special session called for the purpose of considering said petition, and if, before final action thereon, it shall appear to said board or a majority thereof that said petition or the signing thereof does not conform to this act, or contains incorrect statements, no further proceedings pursuant to said petition shall be had, but, if it shall appear that said petition conforms in all respects to the provisions of this act, and that the statements contained therein are true, said board of supervisors shall, by resolution, provide that the question of making the proposed incorporation, consolidation or change of boundaries shall be submitted to the qualified electors of the district to be affected at the next general election, occurring in not less than 40 days after the adoption of such resolution, and if no general election is to occur within 90 days, said resolution may fix a date preceding said general election for a special election on such question: Provided, however, That whenever it is proposed to incorporate an incorporated village as a city without change of boundaries, the initiatory petition herein provided for shall be addressed to the village council or other legislative body of such village and shall be filed

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with the village clerk at least 30 days before final action is taken thereupon and in such case all acts and duties provided in this act to be performed by the board of supervisors shall be performed by the common council of such village and all acts and duties provided in this act to be performed by the clerk of the board of supervisors shall be performed by the village clerk: Provided further, That a petition covering the same territory, or part thereof, shall not be considered by the board of supervisors oftener than once in every 2 years, unless such petition shall have been signed by a number of taxpayers assessed for real property taxes within the area proposed to be annexed whose names appear on the latest assessment rolls therein under the requirements of the general property tax, equal to 35% of the total number of names which appear on the assessment rolls prepared pursuant to said act as being assessed for real property taxes within the area proposed to be annexed, and it shall be the duty of the assessing officers who are charged with the duty of assessing real property within the area proposed to be annexed to report as of the date on which the petition is filed the total number of names on such rolls, within such area, to the clerk of the board of supervisors not more than 14 days after said filing date: Provided, That no vote shall be required if the city owns the land sought to be annexed. After the adoption of such resolution neither the sufficiency nor legality of the petition on which it is based may be questioned in any proceeding.

HISTORY: CL 1915, 3311;—Am. 1917, p. 478, Act 225, Eff. Aug. 10;—CL 1929, 2244;—CL 1948, 117.8;—Am. 1953, p. 204, Act 169, Eff. Oct. 2;—Am. 1955, p. 214, Act 147, Imd. Eff. Jun. 7.

117.8a Incorporation, consolidation or alteration of boundaries; filing substitute petition; action by supervisors.

Sec. 8a. In case a petition has been filed with the clerk pursuant to section 8, and subsequently another petition is filed by other petitioners proposing to affect the same territory in whole or part, then the subsequently filed petition shall not be submitted to the electors while in conflict with the prior petition: Provided, however, That if such prior petition on file is one on which the board of supervisors has not finally set the date for an election, and such subsequent petition has been filed as a substitute therefor encompassing all of the same territory and having among its signers at least 4/5 of the qualified petitioners shown on such prior petition, then the board shall act on such subsequent petition in the place and stead of said prior one. If the board finds that said substitute petition complies with the provisions of this act, an election shall be called thereon; otherwise the election shall be held on such prior petition if it complies with this act.

HISTORY: Add. 1951, p. 189, Act 158, Imd. Eff. Jun. 6.

117.9 Incorporation, consolidation or alteration of boundaries; law applicable; affected district; state lands.

Sec. 9. (1) In the event of a conflict between the provisions of this act and Act No. 191 of the Public Acts of 1968, being sections 123.1001 to 123.1020 of the Compiled Laws of 1948, regarding an incorporation or consolidation, the provisions of Act No. 191 of the Public Acts of 1968 shall govern. The district to be affected by every such proposed incorporation, consolidation or change of boundaries shall be deemed to include the whole of each city, village or township from which territory is to be taken or to which territory is to be annexed. However, when a territory is proposed to be incorporated as a city only the residents of the territory to be incorporated shall vote on the question of incorporation. When a petition signed by the state by the appropriate agency designated by the state administrative board which holds the record legal title to the entire area of the land in the territory adjacent to the city to be annexed, is filed with the governing body of the city and with the township board of the township in which such territory is situated, such annexation may be accomplished by the affirma-

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tive majority vote of the governing body of such city and the approval of the township board of such township.

(2) Except as provided in subsections (1) and (8), a petition or resolution for annexation of territory shall be filed in the Lansing office of the state boundary commission. The commission, after determining the validity of the petition or resolution, shall hold a public hearing in or reasonably near the area proposed for annexation. The commission in processing and approving, denying or revising a petition or resolution for annexation shall have the same powers and duties and be in accordance with and subject to the provisions of Act No. 191 of the Public Acts of 1968, relating to petitions which propose incorporations.

(3) If an annexation is denied by the commission, the commission shall send a certified copy of its order to the clerk of each county, city, village and township affected.

(4) If an annexation is approved, and if on the date the petition or resolution was filed 100 persons or less resided in the area approved for annexation, the commission's order shall not be subject to a referendum. The commission shall send a certified copy of its order to the clerk of each county, city, village and township affected and to the secretary of state. The annexation shall be effective on a date set forth in the commission's order.

(5) If an annexation is approved, and if on the date the petition or resolution was filed more than 100 persons resided in the area approved for annexation, the commission shall send a certified copy of its order to the clerk of each county, city, village and township affected and to the secretary of state. The commission's order shall become final 30 days after the date of the order unless within that 30 days a petition is filed with the commission which contains the signatures of at least 25% of the registered electors residing in the portion of the territory approved for annexation, in the annexing city or in the balance of the township. The commission after verifying the validity of any referendum petition shall order that a referendum on the question of annexation be held in each area from which a valid petition was filed. If a valid petition is not filed within the 30 days or if the majority of the electorate voting on the question in each area in which a referendum was held, voting separately, approve the annexation, the annexation shall be effective on a date set by order of the commission, otherwise the annexation shall not take effect.

(6) The commission shall reject a petition or resolution for annexation of territory which includes all or any part of the territory which was described in any petition or resolution for annexation filed within the preceding 2 years and which was denied by the commission or was defeated in an election pursuant to subsection (5).

(7) In addition to the methods for initiating annexation as provided in this act, a petition or resolution as follows may be submitted to the state boundary commission in a form and manner prescribed by it:

(a) By resolution of the legislative body of the city to which the area is proposed to be annexed.

(b) By petition by the persons, firms, corporations, the United States government or the state or any of its subdivisions who collectively hold record title to 75% or more of the area of the land exclusive of streets in the territory proposed for annexation at the time of filing the petition.

(c) By petition by 20% of the registered electors who reside in the area proposed for annexation.

(8) Where the territory proposed to be annexed to any city is adjacent to the city and consists of a park or vacant property located in a township and owned by the city annexing the same, and there is no one residing thereon, such territory may be annexed to the city solely by resolution of the city council of the city or in any case

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where the territory proposed to be annexed is adjacent to the city and consists of property owned by the city or consists of fractional parts of platted subdivision lots, located in an adjoining city, village, or township, such annexation may also be accomplished by the affirmative majority vote of the legislative body of such city and the approval of the legislative body of such adjoining city, village or township. As an alternate method, where there are no qualified electors residing in the territory proposed to be annexed to the city, other than the person or persons petitioning, a petition signed by a person or persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold the record legal title to more than ½ of the area of the land in the territory to be annexed is filed with the city council of the city and with the township board of the township in which such territory is situated, such annexation may be accomplished by the affirmative majority vote of the city council of such city and the approval of the township board of such township. At least 10 days prior to the approval by the township board, the township treasurer shall notify, personally or by registered mail with return receipt demanded, the owners of all real property in the territory to be annexed as shown on the assessment rolls of the township at the last known address on file with the township treasurer. This section shall not be construed so as to give any city the authority to proceed hereunder to attach territory from any other city unless the question relative thereto has been voted upon by the voters of the entire cities affected, except as hereinbefore specifically provided, where the territory proposed to be annexed is adjacent to a city and consists of property owned by the city or consists of fractional parts of platted subdivision lots, located in an adjoining city.

(9) The provisions of section 14 shall not be applicable to an annexation approved by the commission of part of a township or village to a city except in the event of outstanding bonds or other evidences of indebtedness of the township or village. In such event, the commission shall determine and order an equitable division of assets and liabilities which relate to the bonds or other indebtedness.

(10) The provisions of sections 8 and 8a shall not be applicable to petitions or resolutions filed with the state boundary commission.

(11) On and after the effective date of the 1970 amendments to this section, and so long as Act No. 191 of the Public Acts of 1968 is in effect, annexation of territory from a township or village to a home rule city shall be as provided in this section and no other means of annexation shall be effective.

HISTORY: CL 1915, 3312;—Am. 1917, p. 478, Act 225, Eff. Aug. 10;—Am. 1925, p. 508, Act 337, Eff. Aug. 27;—CL 1929, 2245;—Am. 1931, p. 521, Act 314, Imd. Eff. Jun. 16;—Am. 1935, p. 78, Act 48, Imd. Eff. May 6;—Am. 1947, p. 42, Act 36, Eff. Oct. 11;—Am. 1947, p. 631, Act 334, Eff. Oct. 11;—CL 1948, 117.9;—Am. 1951, p. 77, Act 58, Eff. Sep. 28;—Am. 1956, p. 149, Act 68, Eff. Aug. 11;—Am. 1970, p. 602, Act 219, Eff. Apr. 1, 1971.

117.9a Annexation of township remnant territory to home rule city; procedure.

Sec. 9a. Whenever the process of incorporation, consolidation or annexation leaves a portion of a township with no qualified electors residing thereon and without the constitutional and statutory officers to perform their functions as prescribed by law, as part of the alternate method of annexation provided for by section 9 of this act, a petition signed by the owner or owners of record of all the real property of such portion of the township, may be filed with the clerk of the city to which annexation is sought and with the county clerk of the county in which the territory is situated, seeking the annexation of such territory to such city. The annexation may be accomplished by the affirmative majority vote of the members-elect of the governing body of the city and approval of the majority vote of all of the members of the county board of supervisors.

HISTORY: Add. 1959, p. 99, Act 92, Eff. Mar. 19, 1960.

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117.10 Certified copies of petition and resolution; transmittal; election notices.

Sec. 10. The county clerk shall, within 3 days after the passage of the resolution provided for in section 8 of this act, transmit a certified copy of said petition and of such resolution to the clerk of each city, village or township in the district to be affected by the proposed incorporation, consolidation or change, and it shall be the duty of each of said city, village and township clerks to give notice of the date and purpose of the election provided for by said resolution by publication in 1 or more newspapers published within said district at least once in each week for 4 weeks preceding said election, and by posting a like notice in at least 10 public places in said district not less than 10 days prior to such election.

HISTORY: CL 1915, 3313;—CL 1929, 2246;—CL 1948, 117.10.

Similar provision in Jud. Act, see Compilers' § 600.2125.

117.11 Petition for incorporation, consolidation or change of boundaries; affidavit, filing with secretary of state, certification, elections.

Sec. 11. When the territory to be affected by any proposed incorporation, consolidation or change is situated in more than 1 county the petition hereinbefore provided shall be addressed and presented to the secretary of state, with 1 or more affidavits attached thereto sworn to by 1 or more of the signers of said petition, showing that the statements contained in said petition are true, that each signature affixed thereto is the genuine signature of a qualified elector residing in a city, village or township to be affected by the carrying out of the purposes of the petition and that not less than 25 of such signers reside in each city, village or township to be affected thereby. The secretary of state shall examine such petition and the affidavit or affidavits annexed, and if he shall find that the same conforms to the provisions of this act he shall so certify, and transmit a certified copy of said petition and the accompanying affidavit or affidavits to the clerk of each city, village or township to be affected by the carrying out of the purposes of such petition, together with his certificate as above provided, and a notice directing that at the next general election occurring not less than 40 days thereafter the question of making the incorporation, consolidation or change of boundaries petitioned for, shall be submitted to the electors of the district to be affected, and if no general election is to be held within 90 days the resolution may fix a date preceding the next general election for a special election on the question. If he shall find that said petition and the affidavit or affidavits annexed thereto do not conform to the provisions of this act he shall certify to that fact, and return said petition and affidavits to the person from whom they were received, together with such certificate. The several city, village and township clerks who shall receive from the secretary of state the copies and certificates above provided for shall give notice of the election to be held on the question of making the proposed incorporation, consolidation or change of boundaries as provided for in section 10 of this act.

HISTORY: CL 1915, 3314;—CL 1929, 2247;—CL 1948, 117.11;—Am. 1956, p. 125, Act 41, Imd. Eff. Mar. 28.

117.12 Election returns; canvass; village clerk, duties.

Sec. 12. The returns by the several boards of election inspectors shall be made to the clerk of the county in which the city or proposed city, or the greater part thereof, if in more than 1 county, is located, and shall be canvassed on the first Thursday following said election in the manner provided by law for a county canvass: Provided, That if the purpose is to incorporate 1 village as a city the returns shall be made to the village clerk, and the vote canvassed the same as in other village elections, and in such case all duties which it is provided in this act shall be performed by the county clerk shall devolve upon the village clerk, and all petitions, certificates or other papers or documents provided in this act to be filed with the county clerk shall be filed with the

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village clerk, and all expenses to be borne by the county according to the provisions of said section shall be borne by the village.

HISTORY: CL 1915, 3315;—Am. 1917, p. 479, Act 225, Eff. Aug. 10;—CL 1929, 2248;—CL 1948, 117.12.

COUNTY CLERK: DUTIES: See Compilers' §§ 117.10, 117.13, 117.15 and 117.24.

117.13 Effective date of incorporation, consolidation, attachment or detachment; certificate of board of county canvassers; representation, transfer of property, governmental function.

Sec. 13. On the filing in the office of the secretary of state and the clerk of the county or counties within which the city or proposed city is located, of a copy of the petition, and of every resolution, affidavit or certificate necessarily following such petition, with the certificate of the board of county canvassers attached, showing that the purposes of such petition have been approved by a majority of the electors voting thereon, as provided in this act, which shall also give the number of votes cast on such proposition and the number cast for and against the same, the territory described in said petition shall be duly and legally consolidated as 1 city, or attached to or detached from the city named in such petition, as the case may be, and such petition and the subsequent proceedings thereunder shall be duly recorded in each of said offices in a book to be kept for that purpose, and either of such records or certified copies thereof shall be prima facie evidence of the consolidation or change of boundaries prayed for in such petition. Territory detached from any city shall thereupon become a part of the township or village from which it was originally taken: Provided, however, That when an incorporated city or village is annexed to and incorporated with a city, such annexed territory shall constitute 1 or more separate wards of the city to which it is annexed and have representation in the legislative body of such city to which it is annexed: Provided, The territory so annexed shall have a population equivalent to the approximate population of 1 or more wards of the city to which it is annexed: Provided, however, That in the case of annexation of part of a township to a city, the effective date of such annexation shall be 60 days after the date of the election unless the board of supervisors of the county shall by resolution fix another date not less than 30 days after the election, and in the case of annexation of an entire township to a city the effective date of the annexation shall be 90 days after the date of the election unless the board of supervisors of the county shall by resolution fix another date not less than 45 days after the date of the election: Provided further, That in case of a vote on the incorporation of a new city, such proposed city shall not be deemed incorporated until a charter has been adopted and filed as hereinafter provided: Provided further, That no property, real or otherwise, owned by any such governmental unit or portion thereof shall be disposed of, nor shall any transfer of governmental function be made prior to such effective date, except by joint agreement of the legislative bodies of the units of government, nor shall any funds be expended except in payment of the costs of operation of normal business of said township.

HISTORY: Am. 1911, p. 117, Act 81, Eff. Aug. 1;—CL 1915, 3316;—Am. 1917, p. 499, Act 233, Eff. Aug. 14;—CL 1929, 2249;—CL 1948, 117.13;—Am. 1952, p. 37, Act 35, Eff. Sep. 18;—Am. 1956, p. 160, Act 77, Eff. Aug. 11.

117.14 Incorporation or annexation; succession of property; assets, liabilities; cemeteries.

Sec. 14. Whenever an incorporated village is incorporated as a city, without change of boundaries, such city shall succeed to the ownership of all the property of such village and shall assume all of its debts and liabilities. Whenever a city, village or township is annexed to a city, the city to which it is annexed shall succeed to the ownership of all the property of the city, village or township annexed, and shall assume all of its debts and liabilities. Whenever a part of a city, village or township is annexed to a city, the real property in the territory annexed which belongs to the city, village or township from which it is taken shall be sold by the authorities of the city, village or town-

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ship in which said land was located before such annexation, and that portion of the proceeds of such sale shall be paid to the city acquiring such territory which shall be in the same ratio to the whole amount received as the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which said territory is taken. Whenever a part of a city, village or township is annexed to a city, all of the personal property belonging to any such city, village or township from which territory is detached shall be divided between the township, city or village from which said territory is detached and the city to which the territory is annexed, in the same ratio as the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which said territory is taken. Whenever a new city shall be incorporated, the personal property of the township from which it is taken shall be divided and its liabilities assumed between such city and the portion of the township remaining after such incorporation, which incorporation shall be effective as of the date of filing the certified copy of the charter as hereinafter provided, in the same ratio as herein provided in case of the annexation of a part of a township to a city, and any real property of a township located in such new city shall be held jointly by such city and the remaining portion of the township in the ratio above mentioned. Such real estate shall be subject to sale by agreement of the governmental units or may be partitioned in the manner provided by law for partitioning of lands held by persons as tenants in common: Provided, That no cemetery within such territory shall be sold; but to the extent it is owned by the city, village or township within which it is located, it shall become the property of the city to which it is annexed.

New city incorporated from township territory; division of state funds payable township; census, special census, joint proration agreement.

Whenever a new city is incorporated from part of a township or townships, such city shall be entitled to its pro rata share of the amount thereafter due such township or townships or due any county agency in respect of population in such township or townships from any future distribution of gasoline and motor vehicle weight tax revenues, intangibles tax revenues, state alcoholic liquor tax revenues, or any other state funds, moneys or grants which, by law, now or hereafter, are required to be distributed among cities, villages, townships and/or counties of the state, which pro rata distribution shall be determined as follows, to-wit:

(1) According to the latest federal census prior to date of distribution but since such annexation, if there be such census, showing the respective population of the township or townships and the municipalities affected;

(2) In the absence of such federal census, an official special census shall be taken of the areas detached from each township to form the newly incorporated city and of the entire township or townships from which such area was detached. Such census shall be taken by enumerators appointed by the secretary of state upon application by any one of the municipalities affected by such incorporation, which census shall be taken, as near as may be, in accordance with the provisions of section 6 of this act; the ratio of population between the areas incorporated from each township to form the newly incorporated city and the remainder of the respective township or townships from which the city was incorporated, shall be the basis for determination of the pro rata share of the state funds, moneys or grants to be distributed.

The township or townships from which such incorporated city is incorporated or the county agency receiving the funds, moneys or grants in respect of population in such township or townships shall be liable to the incorporated city for its proper pro rata

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share of any state funds, moneys or grants received by such township or townships or such county agency, respectively, after the date of incorporation;

(3) In the absence of such federal census and in lieu of an official special census determining the respective populations of the municipalities affected by such incorporation, the newly incorporated city and each township from which the same was incorporated, may agree, by joint resolution, as to the prorating between them and between the city and any county agency receiving state funds, moneys or grants in respect of population in such township or townships of any funds, moneys or grants distributable by the state, a certified copy of which joint resolution shall be filed with the secretary of state and shall thereafter be binding upon all parties affected by said incorporation.

Annexation to a city; division of state funds payable to territory annexed; census, special census, joint proration agreement.

Whenever a part of a city, village or township is annexed to a city, the city to which such territory is annexed shall be entitled to its proper pro rata share of any of the said state funds, moneys or grants thereafter distributable under the law to the city, village or township from which said territory was detached or to any county agency receiving state funds, moneys or grants in respect to population in such township or townships, determined as follows:

(1) According to ratio of population between the area annexed and the remainder of the township, city or village from which said area was detached, as determined by the latest official federal or state census showing such populations;

(2) If there be no official census by which said respective populations can be determined, then a census shall be taken of the territory detached and the remainder of the territory in the township, city or village from which it was detached as provided above in the case of a newly incorporated city;

(3) In the absence of such federal census and in lieu of taking an official special census, the city to which said territory was annexed and the cities, townships, or villages from which said territory was detached, may agree by joint resolution of their governing bodies as to the prorating of any such state funds, moneys, or grants between them and between the city and any county agency receiving said funds, moneys, or grants in respect to population in such township or townships as provided above in the case of a newly incorporated city, a certified copy of which joint resolution shall be filed with the secretary of state and shall thereafter be binding upon all parties to said incorporation.

State funds; distributions affected.

The foregoing provisions shall be used hereafter in determining the pro rata distributions of any state funds, moneys or grants between townships or county agencies and any city which has become newly incorporated or annexed territory since the latest decennial federal census, either before or after the passing of this law; but in no event shall the sharing of any distribution of state funds, moneys or grants made previous to the effective date of this act be altered.

Indebtedness and liabilities; annexation; division on basis of assessed valuation.

The indebtedness and liabilities of every city, village and township, a part of which shall be annexed to a city shall be assumed by the city to which the same is annexed in the same proportion which the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which such territory is taken. Assessed valuation shall be determined in every division pursuant to this section from the last assessment roll of the city, village or township which has been confirmed by the board of review.

HISTORY: CL 1915, 3317;—Am. 1917, p. 479, Act 225, Eff. Aug. 10;—CL 1929, 2250;—Am. 1931, p. 408, Act 233, Eff. Sep. 18;—Am. 1947, p. 57, Act 53, Imd. Eff. Apr. 18;—CL 1948, 117.14;—Am. 1951, p. 190, Act 158, Imd. Eff. Jun. 6;—Am. 1956, p. 161, Act 77, Eff. Aug. 11.

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117.14a Petition for vacating incorporation; initiation; election; certification; assets, disbursement; debts and obligations.

Sec. 14a. Whenever the qualified electors of any city incorporated under the provisions of this act shall file a petition with the city clerk, which petition shall be addressed to the board of supervisors of the county in which the city is located, and signed by not less than 1/4 of the registered electors of such city as shown by the registration lists of the city on the date of such filing, praying that the incorporation of such city be vacated, the city clerk shall, after checking the signatures to such petition to determine their genuineness and sufficiency, refer the same to the county clerk of the county in which such city is located not less than 30 days before the convening of the board of supervisors in regular session: Provided, however, That no such petition may be initiated within 2 years of the effective date of incorporation of said city. Upon receipt of any such petition by any county clerk, the board of supervisors of such county, the county clerk, and the clerks of the city and township or townships affected shall be governed by and do and perform all acts required to be performed by them by sections 8, 9, 10 and 12 of this act with respect to calling and holding an election upon the question petitioned for, the same as though the question were upon the annexation of a part of a city to a township, except that the electors of the city and of the township to be affected shall each vote separately, unless 2 or more townships are to be affected, in which case the votes cast in all such townships shall be cumulated and the result of the election on such question in such townships determined by the total vote therein which is cast for and against such question. In case a 2/3 majority of the qualified electors of such city shall vote in favor of the vacation of the incorporation of the same and a majority of the qualified electors of the township or townships to be affected shall vote in favor of the annexation of the territory of such city to such township or townships, the county clerk shall, within 30 days after the canvass of such votes, make and certify 4 transcripts of all the proceedings in the matter and shall file 2 of such transcripts in the office of the secretary of state and the other 2 copies in his own office, and, upon such filing, the incorporation of such city shall be vacated and the territory thereof annexed to the township or townships from which such territory was detached at the time of the incorporation thereof and by subsequent annexations. Upon the vacation of the incorporation of any city, it shall be the duty of the officers of such city forthwith to deposit all books, papers, records and files relating to the organization of, or belonging or pertaining to such city, which are in their custody as such officers with the county clerk of the county in which such city is located, for safekeeping and reference. The assets of any city, the incorporation of which has been vacated, which have not been set aside or encumbered by the city for the payment of the funded debt or other outstanding obligations of the city, shall become the property of the township to which the territory of the city is annexed, or, if annexed to 2 or more townships, of said townships pro rata according to the assessed value of the portions of the city annexed to each of the townships as shown on the last assessment rolls of the city which were approved by the board of review of the city prior to the vacation of incorporation. The city clerk of such city shall certify to the board of supervisors of the county in which such city is located a statement of all outstanding debt and other obligations at the time the incorporation of such city was vacated, together with an accounting of all moneys on hand for the payment of such debt and other obligations. Said board of supervisors shall proceed to examine the same and shall pass a resolution authorizing the disbursement of such moneys and the assessment and collection of taxes within the area which had comprised the city for the purpose of paying such debt and other obligations in accordance with the conditions set forth in any bond or other instrument by which such debt or other obligations were incurred or secured. Assets of the city which had been set aside at the time of dissolution of incorporation

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for the payment of the debt or other obligations of the city shall be transferred to the township treasurer of the township to which the territory of such city is annexed or to which the largest portion of such city is annexed and shall be applied by him to the payment of such debt and other obligations in accordance with the conditions in any bond or other instrument by which such funds were set aside or encumbered. Upon the vacation or discontinuance of any city incorporation, under the preceding sections, the indebtedness of such city, whether bonded or otherwise, if any there be, shall be assessed, levied and collected upon the territory embraced within the boundaries of such city immediately prior to such vacation. It shall be the duty of the supervisor or supervisors of the township or townships in which the territory formerly embraced within the limits of any vacated city within 1 year from the date of the vacation of such city, except when such indebtedness falls due at some specified time, in which case such assessment shall be made so as to meet such indebtedness when the same falls due, to levy upon the assessment roll or rolls of his township upon the property formerly embraced within the limits of such city, the indebtedness of such city, or such portion of the same as shall be apportioned to the part of the territory formerly constituting such city as lies within his township as hereinafter provided. The taxes so assessed and levied shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness and the manner of the payment of such indebtedness shall be fixed by the board of supervisors in the resolution to be passed by said board for such purpose. For the purpose of paying the debt and other obligations of the city, as herein provided, the area comprising the city, the incorporation of which is sought to be vacated, shall constitute a de facto city for the purpose of assessing, levying, and collecting the taxes required therefor as a city tax, subject to the tax limitation provisions of the charter of such city and of the general law applicable thereto, and not as a township tax, notwithstanding the fact that the same are levied and spread upon the assessment rolls of any township.

HISTORY: Add. 1949, p. 252, Act 220, Eff. Sep. 23.

117.14b Relocation of common boundaries.

Sec. 14b. Whenever the boundaries between cities lying within the same county and subject to this act divide platted lots, or are affected by the relocation of a river or of a natural drain or a street or highway, the boundaries may be relocated along adjacent lot lines or to the center of a common street or a common natural boundary upon resolution of the governing body of each city and upon agreement of the individual property owners affected. Boundaries shall be relocated so that the city in which the major part of the land is located shall gain the entire lot in case of following lot lines. A copy of each resolution shall be recorded with the register of deeds of the county where the land is situated.

HISTORY: Add. 1958, p. 270, Act 192, Imd. Eff. Jul. 22;—Am. 1962, p. 139, Act 147, Imd. Eff. May 7.

117.15 Election on intent to incorporate; charter commission, election, oath, duties, proceedings; vote on charter and officers, election procedures.

Sec. 15. At every election on the question of the intent to incorporate a new city, or to make any consolidation permitted by this act, each elector residing within its proposed territorial limits shall also be entitled to vote for 9 electors, residing in the territory which it is proposed to incorporate or consolidate, as members of a charter commission, and all notices required by section 10 shall include notice of the election thereof. The ballot shall be prepared by the clerk of the county in which the territory is located or if located in more than 1 county, then by the clerk of the county in which

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the greater portion of the territory is located; the expense to be borne by the county. If the proposed city shall be incorporated as herein provided, the county shall be reimbursed by the city at the time the charter is filed. The county clerk shall prepare the ballot to be used at such election in accordance with the general election laws of the state as follows:

For city incorporation. Yes ( )

For city incorporation. No ( ).

Or, if the proposition be to consolidate, such ballot shall be as follows:

For consolidating (naming entities) into one city. Yes ( )

For consolidating (naming entities) into one city. No ( ).

And such county clerk shall also prepare a separate ballot and place upon the same without party designation, under the heading "Candidates for members of the charter commission", the names of all electors, having the qualifications required by this act for members of charter commissions, who shall file a petition signed by 20 qualified electors residing in the territory proposed to be incorporated, asking that such name be placed upon the ballot. In each case of a consolidation, the electors of each city, village, and township, or part of a township, proposed to be consolidated shall vote for and elect such number of such 9 members of the charter commission as shall be substantially in proportion to the number of registered electors thereof, according to the registration rolls of the last regular state, city, or village election held therein, but in no case shall the number to be so elected in any such city, village, or township be less than 1. The board of supervisors or the secretary of state, as the case may be, shall determine and prescribe the number of members of the charter commission to be elected from each such city, village, township, or part of a township in each case of a consolidation, in accordance with the previous sentence. The position of the names of the candidates upon the ballots shall be interchanged as provided in the general primary election law of this state. The ballot shall also bear instructions directing that not more than 9 candidates shall be voted for or, if the proposition be to consolidate, the ballot for members of the charter commission in each city, village, or township, or part of a township, proposed to be consolidated shall bear such instructions directing that not more than such number of candidates determined by the board of supervisors or the secretary of state, as the case may be, to be elected therein shall be voted for. On the vote being canvassed on the question of the intent to incorporate or consolidate, if the result is determined to be in favor of such intent to incorporate or consolidate, the board of canvassers shall proceed to canvass the votes cast for members of such commission, and shall certify to the election of the 9 persons receiving the highest number of votes so cast. The members of the commission so elected shall take the constitutional oath of office, and shall have power to fill vacancies in their membership, and 5 or more of them shall constitute a quorum. The charter commission shall convene within 10 days after election and frame a charter for said proposed city within 90 days thereafter. It shall choose its own officers, determine the rules of its proceedings and keep a journal. A roll call of its members on any question shall be entered on the journal at the request of any member. It shall provide the manner of nominating the candidates for the first elective officers provided in the proposed charter. It shall fix the date of the first city election, and do and provide all other things necessary for making such nominations and holding such election. Such election may be held at a special election or on the same date as a general election. It shall publish such proposed charter in 1 or more newspapers published in said proposed city, at least once, not less than 2 weeks and not more than 4 weeks preceding said election, together with a notice of said election, and that on the date fixed therefor the question of adopting such proposed charter will be voted on, and that the elective officers provided for therein

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will be elected on the same date. Notice of such election shall also be posted in at least 10 public places within the proposed city not less than 10 days prior to such election. Said commission shall provide for 1 or more polling places for said election, and give like notice of their location, and shall appoint the inspectors of said election. The results of the election shall be canvassed by the county board of canvassers.

HISTORY: CL 1915, 3318;—CL 1929, 2251;—CL 1948, Am. 1956, p. 163, Act 77, Eff. Aug. 11;—Am. 1965, p. 744, Act 378, Imd. Eff. Jul. 23;—Am. 1966, p. 330, Act 246, Eff. Jul. 11.

117.16 Incorporation; rejection of charter; de facto mayor, duties; resubmission of charter, procedure; effect of nonadoption within two years of election to incorporate.

Sec. 16. If the proposed charter be rejected at such election the election of officers shall be void, except that the elector who shall receive the highest number of votes cast for the office of mayor shall nevertheless be a de facto officer of such proposed city, until a mayor for such proposed city is elected and qualified pursuant to a charter of which the electors have approved, and the mayor so elected shall, after the lapse of 10 days within which petitions for the selection of a new charter commission may be filed as hereinafter stated, if such petition has not been filed with him, by notice, require the said charter commission to reconvene and within 90 days after such notice provide such revision, amendment or amendments to the original draft of the charter previously prepared by them as to them shall seem fit. The proposed charter, with such amendment or amendments, shall be resubmitted to the qualified electors of said proposed city in the same manner and with like notice and proceedings as required in the first instance, which proceedings shall continue until the qualified electors of said proposed city have, by a majority vote, approved a charter for said proposed city: Provided, That any such proposed charter, as originally submitted or resubmitted with any such amendment or amendments, shall be submitted not to exceed 3 times to the qualified electors of said proposed city, and if rejected 3 times, or in the event that no charter is or has been adopted by the electors of said proposed city during a period of 2 years following the election on the question of the incorporation of said proposed city, the township clerk of the township in which said proposed city is located, or of that township having the largest portion of the population thereof, shall certify such fact to the secretary of state and to the county clerk, register of deeds, and circuit court of the county in which said proposed city is located, and the territory of said proposed city shall thereupon revert to the status existing prior to the filing of the petition required by section 6 of this act, and the office of each charter commissioner and de facto officer of the proposed city shall terminate and cease to exist, and any sum of moneys deposited with the county clerk according to section 6 of this act shall be paid by the county clerk into the general fund of the county.

HISTORY: CL 1915, 3319;—CL 1929, 2252;—Am. 1947, p. 281, Act 201, Eff. Oct. 11;—CL 1948, 117.16;—Am. 1956, p. 164, Act 77, Eff. Aug. 11.

117.17 Incorporation; new charter commission, petition, procedure, eligibility, duties, expenses; control of territory pending adoption; date of incorporation; voting franchise.

Sec. 17. In cases where the qualified electors of a proposed city shall reject a proposed charter, any 300 electors of said proposed city may petition the de facto mayor for the selection of a new charter commission, and if said petition shall be filed with the de facto mayor of said proposed city on or before the expiration of 10 days from the canvass and determination of the vote on said charter, the de facto mayor of said proposed city shall, if said petition is signed by the requisite number of electors, certify such fact upon said petition and forthwith file the same with the county clerk or secretary of state, depending upon the office in which the original petition was filed, and such county clerk or secretary of state as the case may be, shall give notice of the filing

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of such petition in the same manner as upon the filing of the original petition and an election shall be called and held and a new charter commission shall be elected in the same manner as in the first instance. The duties of the new charter commission shall be the same as those of the former commission, and as many such successive commissions as necessary may be held in like manner until a charter for such proposed city is framed and approved by the electors thereof. All persons who have served on previous charter commissions within 1 year shall be ineligible as members of every such commission. The first legislative body assembled pursuant to a charter adopted by the electors of such city, shall provide for the payment of the necessary expenses incurred by the county and by the members of such commission or commissions, but the members of the commission shall receive no compensation for their services. The county clerk shall return any unexpended sum of money deposited under section 6 of this act to the depositor. The territory constituting the city shall remain under the control and management of the respective cities, villages and townships from which it was taken and the authority of the officers of such city, villages and townships shall continue until the charter of the new city has been adopted and the officers have been elected and qualified as herein provided. No new city shall be deemed to be incorporated until a charter has been adopted and duplicate printed copies certified by the clerk filed in the office of the county clerk. The county clerk shall forthwith forward 1 copy to the secretary of state, and the date it is received shall be the date of incorporation of the new city. The general voting franchise of no qualified elector shall be lost because of the incorporation, annexation or consolidation processes and his voting rights where last eligible shall be unimpaired by the incorporation, annexation or consolidation processes.

HISTORY: CL 1915, 3320;—CL 1929, 2253;—CL 1948, 117.17;—Am. 1956, p. 164, Act 77, Eff. Aug. 11.

117.18 Incorporation; revision of charter, procedure, commission, advisory vote; incorporation of provision in original charter granted by legislature.

Sec. 18. Any city desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter; when its legislative body shall by a 3/5 vote of the members elect declare for a general revision of the charter, or when an initiatory petition shall be presented therefor as provided in section 25, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next general or municipal election, or at a special election. In case the electors shall, by a majority vote, declare in favor of such revision, a charter commission shall be elected within 60 days consisting of 9 electors of such city having a residence of at least 3 years in the municipality, or the legislative body by a 3/5 vote of the members elect or the initiatory petition may provide that the charter commission be selected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted. No city officer or employee, whether elected or appointed, shall be eligible to a place on the commission.

In the cities where provision is made by the city charter for the nonpartisan elections of city officers, the method prescribed for such elections shall apply in the election of charter commissioners. Where no such provision is made by the charter of such city, candidates shall be nominated by petition without reference to or designation of party affiliation, signed by a number of qualified electors of such city equal to not less than 2% and not more than 4% of the total vote cast for the chief executive office, or the highest vote cast for any commissioner in cities having the commission form of government, of such city at the last preceding election, asking that the name of the candidate designated be placed upon the ballot. The names of all candidates so nominated shall be placed upon a separate ballot at the election designated to be held for the election of a charter commission and without their party affiliations designated;

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the 9 candidates having the greatest number of votes shall be declared elected; the election of the members of such commission, except as herein specified, shall be conducted as near as may be as now provided by law for the election of city officers in the respective cities of this state unless special methods shall be otherwise provided in the charter of such city.

If the proposed revised charter is rejected by the electors of the city, the charter revision commission shall immediately reconvene and determine whether to take no further action, in which case it shall terminate and cease to exist, or whether to provide a revision of, or amendments to, the revised charter previously prepared by the commission. The proposed revised charter with amendments shall be resubmitted to the qualified electors of the city in the same manner and with like notice and proceedings as required in the first instance. A proposed revised charter, as originally submitted or resubmitted with amendments, shall be submitted not to exceed 3 times to the qualified electors of the city. If the charter is rejected 3 times, or if no revised charter is adopted during 3 years following the adoption of the proposition to revise, then the charter revision commission shall terminate and cease to exist. A new proposal to revise may be adopted at any time after termination of a charter revision commission.

When the question of having a general revision of the charter shall be submitted to the electors of any city, the legislative body of such city or the initiative petitions may provide for the submission with such question for an advisory vote of the question of a change in the form of government of such city, or the question of continuing any power, limitation or provision granted to such city in a charter granted or passed by the legislature for the government thereof. When such advisory vote is requested in an initiatory petition, such question shall be submitted as hereinbefore provided. In the revision of the charter of any city, any power, limitation or provision granted to such city in any charter granted or passed by the legislature for the government of such city and contained in the charter to be revised may be included in such revised charter, and when so included, such power, limitation, or the effect of any such provision shall continue with the same force and effect as when granted or passed by the legislature in the first instance.

HISTORY: Am. 1911, p. 355, Act 203, Eff. Aug. 1;—Am. 1913, p. 11, Act 5, Imd. Eff. Mar. 11;—CL 1915, 3321;—Am. 1917, p. 22, Act 6, Imd. Eff. Mar. 9;—CL 1929, 2254;—Am. 1941, p. 104, Act 86, Eff. Jan. 10, 1942;—CL 1948, 117.18;—Am. 1966, p. 331, Act 246, Imd. Eff. Jul. 11.

117.19 Charter; duty of legislative body.

Sec. 19. The legislative body of the municipality unless it is otherwise provided, shall fix in advance of the election of a charter commission the place of its meeting, the compensation of its members, the money for the expense thereof, and if need be provide the ballots for election.

HISTORY: Am. 1911, p. 355, Act 203, Eff. Aug. 1;—CL 1915, 3322;—CL 1929, 2255;—CL 1948, 117.19.

Act 203 of 1911 was held unconstitutional and void, see note under Sec. 1.

The section as it appears above is in the form as enacted in Act 279 of 1909. In the amendatory act of 1909 the following was inserted in brackets after the word municipality: "Shall provide for the election of said charter commission at the next general or municipal election to be held in said municipality, if there shall be a general or municipal election within sixty days after such legislative body or the electors of said municipality shall have declared for such general revision in the manner provided in the preceding section, and if there shall be no such general election within said sixty days, then said legislative body shall within ten days after such declaration, call a special election for the selection of such charter commission to be held within sixty days and" in the place of the words "unless it is otherwise provided."

117.20 Charter commission; powers, duties, compensation.

Sec. 20. The charter commission shall convene on the second Tuesday after the election at the place designated therefor. The city clerk shall preside at the first meeting; shall administer the oath of office to the members-elect, and shall act as clerk of the commission. It shall be the sole judge of the qualifications, elections and returns of its own members, choose its own officers, except clerk, determine the rules of its proceedings and keep a journal. A roll call of its members on any question shall be entered on the journal at the request of 1/5 of its members or less if it shall so determine.

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It may fill any vacancy in its membership, and it shall fix the time for the submission of the charter to the electors. No member shall receive compensation for more than 90 days and only for actual attendance. A majority of all the members shall constitute a quorum, and its sessions shall be public.

HISTORY: Am. 1911, p. 356, Act 203, Eff. Aug. 1;—CL 1915, 3323;—CL 1929, 2256;—CL 1948, 117.20.

Act 203 of 1911 was held unconstitutional and void, see note under Sec. 1.

The section as it appears above is in the form as enacted in Act 279 of 1909. The following sentence was added to the section in the amendatory act of 1911: "The commission may submit with the charter, independent sections or propositions, and such of them as shall receive the approval of a majority of the electors voting thereon shall become a part of the charter if the charter is adopted by the electors."

117.21 Charter amendment; procedure, resubmission; time of nomination of city officers; special charter, application of act.

Sec. 21. Any existing city charter, whether passed pursuant to the provisions of this act or heretofore granted or passed by the legislature for the government of a city, may from time to time be amended in the manner following: An amendment may be proposed by the legislative body of a city on a 3/5 vote of the members-elect or by an initiatory petition as herein provided, and in case the same is proposed by the legislative body of the city, then the same shall be submitted to the electors of such city at the next regular municipal or general state election or special election, to be held in such city not less than 60 days after the proposal of such amendment, and in case the amendment is proposed by an initiatory petition as herein provided, then the same shall be submitted to the electors of such city as herein provided at the next regular municipal or general state election held in such city which shall occur not less than 90 days following the filing of such petitions. Proposed charter amendments and other questions to be submitted to the electors shall be published in full with existing charter provisions which would be altered or abrogated thereby. The purpose of any such proposed charter amendment or question shall be designated on the ballots in not more than 100 words, exclusive of caption, which shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against such amendment or question, and the text of such statement shall be submitted to the attorney general for approval as to compliance with this requirement before being printed: Provided, That the proposed charter amendment in full shall be posted in a conspicuous place in each polling place. The form in which any proposed charter amendment or question shall appear on the ballot, unless provided for in the initiatory petition, shall be determined by resolution of the legislative body, and when provided for by the initiatory petition, the legislative body may add such explanatory caption as shall be deemed advisable. Any proposed amendment shall be confined to 1 subject and in case a subject should embrace more than 1 related proposition, each proposition shall be separately stated to afford an opportunity for an elector to vote for or against each such proposition: Provided, That a proposed charter amendment failing of adoption at any election shall not be resubmitted for a period of 2 years: Provided further, That in any city in which a city election is held in April, the legislative body thereof may amend the charter of said city by resolution so as to provide that there shall be nominated on the third Monday in February preceding any April election, by direct vote of the registered and qualified voters within such city, candidates for ward and city offices to be voted for at the next April election: Provided further, That any city charter heretofore granted by the state legislature, not pursuant to the provisions of this act, including charters of cities of the fourth class, amended as herein provided, by adopting or coming under any part of this act by amendment, and not by general revision, adoption or incorporation under this act, may again be amended hereunder, as to such part or parts so amended, by re-enacting hereunder, that part or parts of the original act of incorporation which existed before any amendment was made hereunder, and such part or parts of the original act of incorporation so re-enacted shall not be considered or construed as operating or coming

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under the provisions of this act in any manner, it being the intention to permit a city operating under such a charter, to adopt by amendment any part of the provisions of this act permissible and thereafter to withdraw from the provisions of this act. Propositions and questions shall be proposed, initiated, submitted and canvassed in a manner similar to that provided for charter amendments.

HISTORY: Am. 1911, p. 356, Act 203, Eff. Aug. 1;—Am. 1913, p. 12, Act 5, Imd. Eff. Mar. 11;—CL 1915, 3324;—Am. 1917, p. 23, Act 6, Imd. Eff. Mar. 9;—Am. 1917, p. 69, Act 40, Eff. Aug. 10;—Am. 1917, p. 493, Act 232, Imd. Eff. May 10;—Am. 1919, p. 723, Act 403, Eff. Aug. 14;—Am. 1929, p. 688, Act 279, Eff. Aug. 28;—CL 1929, 2257;—Am. 1939, p. 511, Act 279, Eff. Sep. 29;—Am. 1947, p. 3, Act 1, Imd. Eff. Jan. 23;—Am. 1947, p. 93, Act 87, Imd. Eff. May 12;—CL 1948, 117.21;—Am. 1955, p. 182, Act 117, Eff. Oct. 14.

117.22 Charter amendment; submission to governor, approval; reconsideration.

Sec. 22. Every amendment to a city charter whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature for the government of such city, before its submission to the electors, and every charter before the final adjournment of the commission, shall be transmitted to the governor of the state. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the city, with his objections thereto, which shall be spread at large on the journal of the body receiving them, and if it be an amendment proposed by the legislative body, such body shall re-consider it, and if 2/3 of the members-elect agree to pass it, it shall be submitted to the electors. If it be an amendment proposed by initiatory petition, it shall be submitted to the electors notwithstanding such objections.

HISTORY: Am. 1913, p. 13, Act 5, Imd. Eff. March 11;—CL 1915, 3325;—CL 1929, 2258;—CL 1948, 117.22.

117.23 Charter amendment; publication before submission.

Sec. 23. Every city charter and amendment thereto, whether of cities incorporated under the provisions of this act, or under an existing charter of the city heretofore granted or passed by the legislature for the government of the city before submission to the electors, shall be published as the commission or legislative body respectively may prescribe. There may be submitted with any charter or an amendment to a charter independent sections or propositions, and such of them as receive a 3/5 vote of the electors voting thereon shall become a part of such charter, or shall prevail as such amendments.

HISTORY: Am. 1913, p. 13, Act 5, Imd. Eff. March 11;—CL 1915, 3326;—CL 1929, 2259;—CL 1948, 117.23.

117.24 Charters or amendments; filing; effective date.

Sec. 24. If the charter, or any amendment thereto, whether of cities incorporated under the provisions of this act, or under an existing charter of the city heretofore granted or passed by the legislature for the government of the city, be approved, then 2 printed copies thereof, with the vote for and against duly certified by the city clerk shall, within 30 days after the vote is taken, be filed with the secretary of state, and a like number with the county clerk of the county in which such city is located and shall thereupon become law, unless a different date for the taking effect of such charter or charter amendment, or any part thereof, is specifically set forth therein.

HISTORY: Am. 1913, p. 13, Act 5, Imd. Eff. March 11;—CL 1915, 3327;—CL 1929, 2260;—Am. 1941, p. 260, Act 175, Eff. Jan. 10, 1942;—CL 1948, 117.24.

117.25 Amendments; initiatory petition; perjury, checking, mandamus, submission, insufficiency; increased expenditure of funds.

Sec. 25. The initiatory petition shall be addressed to and filed with the city clerk. The petition shall state what body or organization, if any, or if no body or organization, then what persons are primarily interested in and responsible for the circulation of the petition and the securing of the amendment. Each sheet of the petition shall be verified by the affidavit of the person who obtained the signatures thereto and shall be signed by at least 5% of those persons residing in and registered to vote in the munici-

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pality, the charter of which is to be amended, as of the date when they signed the petition. Each signer of the petition shall inscribe upon it, immediately after his signature, the date of signing and his street address. Any signatures obtained more than 1 year before the filing of the petition with the city clerk shall not be counted.

Verification.

The verification shall state that the petition was circulated at the request of and pursuant to the directions of the association, organization or persons desiring the amendment and shall also state that the signatures were obtained by the person verifying the petition; that the signatures are the signatures of the persons purporting to sign the same and that each of them signed in his presence and that the person verifying the petition has good reason to believe and verily does believe that the signers thereof are duly registered electors of the municipality and are the identical persons their signatures purport them to be.

Penalty.

Any person who shall wilfully affix another's signature, or subscribe and swear to a verification false in any material particular is guilty of perjury; and any person who shall take the oath of another to the petition not knowing him to be the identical person he represents himself to be or knowing that the petition or any part thereof is false or fraudulent in any material particular, or shall falsely represent that the proposed amendment is proposed by parties other than the true sponsors, is guilty of a felony and shall be liable to the same punishment as provided for perjury.

Canvass; time; submission.

Upon receipt of the petition, the city clerk shall canvass it to ascertain if it has been signed by the requisite number of registered electors. For the purpose of determining the validity thereof, he may cause any doubtful signatures to be checked against the registration records of the city. Within 45 days from the date of the filing of the petition, the city clerk shall certify the sufficiency or insufficiency thereof. If the petition contains the requisite number of signatures of registered electors, the clerk shall cause the proposed amendment to be submitted to the electors of the city at the next regular municipal or general state election held in the city which shall occur not less than 90 days following the filing of the petition.

Special election; sufficiency of petition; revenue measures.

When the petition shall contain the number of signatures equal to or in excess of 20% of those persons residing in and registered to vote in the city as of the date when they signed it, and when the petition shall request that the proposal petitioned for shall be submitted at a special election to be called for the purpose of submitting the same, the city clerk within 90 days of the date of the filing of the petition, shall call a special election to be held not less than 120 days nor more than 130 days after the date of filing the petition unless a primary or regular election shall occur or a special election shall have been or shall be called for other purposes to be held within 150 days after the date of the filing of the petition. In that event the proposal shall be submitted at such primary, regular or special election and no special election shall be so called. Other proposals, whether initiated by a 5% petition or proposed by the legislative body within the times within this act provided, may be submitted at such special election. No proposal submitted to the electors by the initiative and receiving an affirmative majority of the votes cast thereon shall be held unconstitutional, invalid or void on account of the insufficiency of the petition by which submission of the same was procured. Any proposal contemplating increased expenditure of funds by the municipality shall become effective, if adopted by the electors, only at the beginning of that fiscal year of the municipality commencing not earlier than 60 days following the election at which the proposal was approved by the electors.

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Judicial review.

Any person aggrieved by any action, or failure of action, of the city clerk may bring an action against the clerk in the circuit court for writ of mandamus or for other appropriate relief.

HISTORY: Am. 1911, p. 356, Act 203, Eff. Aug. 1;—Am. 1913, p. 13, Act 5, Imd. Eff. Mar. 11;—CL 1915, 3328;—Am. 1917, p. 24, Act 6, Imd. Eff. Mar. 9;—Am. 1919, p. 723, Act 403, Eff. Aug. 14;—Am. 1927, p. 377, Act 187, Eff. Sep. 5;—CL 1929, 2261;—Am. 1939, p. 512, Act 279, Eff. Sep. 29;—Am. 1947, p. 94, Act 87, Imd. Eff. May 12;—CL 1948, 117.25;—Am. 1969, p. 208, Act 114, Imd. Eff. Jul. 29.

CITED IN OTHER SECTIONS: The above section is cited in §§ 124.288, 141.133, and 323.159.

117.26 Elections; general provisions.

Sec. 26. All elections held hereunder shall be paid for by the locality where held, and except as now otherwise provided by law or ordinance shall receive such publication and notice as the legislative body may determine, and shall be arranged for, held and conducted by the same officers and in the same manner as near as may be as general biennial fall elections.

HISTORY: CL 1915, 3329;—CL 1929, 2262;—CL 1948, 117.26.

117.27 Repealed. 1966, p. 361, Act 261, Eff. Mar. 10, 1967.

Section related to determination of representation by cities on county board of supervisors.

117.27a Apportionment of wards; definitions.

Sec. 27a. (1) For the purposes of this section:

(a) "Local legislative body" means the council, common council or commission of a city.

(b) "Ward" means a district comprising less than all of the area of a city which constitutes the political unit from which 1 or more members of the local legislative body is nominated, elected or nominated and elected.

(2) The population of each city subject to the provisions of this section shall, in the first instance, be determined from the most recent official United States decennial census. Other governmental census figures of total city population may be used if taken subsequent to the latest decennial United States census and the last decennial United States census figures are inadequate for the purposes of this section. Each city shall have the power to conduct its own census for this purpose.

(3) This section shall be applicable to all cities that do not elect all the members of their local legislative body at large. This section shall not repeal any charter provisions meeting the standards established herein but shall be applicable to all charters that fail in whole or in part, to meet the standards herein, or the constitutional requirements of this state or United States constitution.

(4) In each such city subject to the provisions of this section the local legislative body, not later than December 1, 1967, shall apportion the wards of the city in accord with this section. In subsequent years, the local legislative body, prior to the next general municipal election occurring not earlier than 4 months following the date of the official release of the census figures of each United States decennial census, shall apportion the wards of the city in accord with this section.

(5) The local legislative body shall file the apportionment plan with the city clerk and make copies available at cost to any registered voter of the city. Such plan shall provide for wards which are as nearly of equal population as is practicable and contiguous and compact. Residents of state institutions who cannot by law register in the city as electors shall be excluded from population computations where the number of such persons is identifiable in the census figures available.

(6) Any registered voter of the city within 30 days after the filing of the apportion-

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ment plan for his city, or within 30 days after such apportionment plan shall be submitted, may petition the circuit court to determine if the plan meets the requirements of the laws and constitution of this state and the United States.

HISTORY: Add. 1966, p. 205, Act 182, Eff. Jul. 1.

117.27b Board of review; appointment of members, functions.

Sec. 27b. When the charter of any city heretofore adopted provides that the city representatives on the board of supervisors of the county shall be members of the city's board of review or act in any other official capacity or perform any other official function, such city may provide by ordinance for the appointment of the members of the board of review of the city from the citizens of the city and for the filling of such other offices and the performance of such official functions heretofore filled or carried out by such city representatives in such manner as the legislative body of such city shall prescribe.

In the years 1969 and 1970 the legislative body of any city whose charter provides for a board of review consisting of appointed members of the county board of supervisors may appoint a board of review consisting of the same number as those now serving as appointed members consisting of electors resident in the city, to review the assessment roll according to law, notwithstanding the provision of any charter or law to the contrary.

HISTORY: Add. 1969, p. 7, Act 2, Imd. Eff. Mar. 25.

117.28 Charter change; laws in force; justice and police courts, justices, charter provisions, ordinances.

Sec. 28. In all cities now organized, which may hereafter amend or revise their charters under the provisions of this act, all of the provisions of the present law, whether general or special, applying to any such city relating to the qualifications, term of office, powers, jurisdiction, duties and compensation of justices of the peace and constables therein, and the conduct of all proceedings, suits and prosecutions before such justices of the peace and appeals therefrom, and all laws creating municipal courts and the proceedings thereof in any such city, shall remain in full force and effect, except as to the time and manner of nomination and elections of judges, justices and court officers: Provided, That any city having a justice court and a police court or a justice court may, in or by amendment to its charter provide for the abolishment of said courts and the consolidation of the powers, jurisdictions and duties of said courts into 1 court to be presided over by 1 judge or justice, who is a qualified resident elector of the city in which election is sought, and who shall be an attorney admitted to practice law in the supreme court of this state immediately preceding the date of his appointment or election, and who shall be paid a salary by said city, in lieu of all fees, both in civil and criminal cases, to which said judge or justice might be entitled but for the provisions of this act, which fees in civil cases shall be collected by said judge or justice and turned over by him to the city treasurer of said city on the first and fifteenth of each month, and which fees in criminal cases shall be charged and presented to and audited by the board of supervisors of the county in which said court is situated, in the same manner and amounts as provided by law in the case of justices of the peace in townships, and upon allowance by said board of supervisors, shall be paid monthly, by said county to the treasurer of said city for the use and benefit of said city, and who shall turn over to the county treasurer of such county all costs and fines in state criminal cases, and who shall turn over to the city treasurer of such city all costs and fines in city ordinance or charter cases, and who shall give bonds to such city and the county in which such city is located, in amounts to be fixed by such charter, and who, in the first instance, shall be appointed by the city commission or common council of such city to hold such office from the date when said courts, first above mentioned in this proviso, shall be

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abolished until his successor shall have been elected and qualified, as hereinafter set forth, and who shall be nominated and elected, as nearly as may be, in the manner the mayor of such city is nominated and elected, at the first general municipal primary and the first general municipal election following the adoption of such amendment of such charter, and at each such primary and election every 6 years thereafter, and whose term of office shall be 6 years, and shall commence on the first day of January following his election, and who shall be empowered to receive and take from said offices, so abolished, all files, records and dockets kept therein, appertaining to said offices, and who shall be empowered to issue executions according to law, upon any judgment appearing upon said dockets with the same effect as if said judgment had been rendered by him, and who shall have transferred to him any and all actions or proceedings pending in either of said offices so abolished, and who shall have full jurisdiction to proceed with such actions or proceedings in the same manner as if they had been brought before him originally, and who shall have the same powers, jurisdiction and duties, except as it shall be hereafter otherwise lawfully provided by charter, as are now conferred upon the justice and/or judge of the courts, first above mentioned in this proviso, and except as it is hereafter otherwise lawfully provided by charter, all of the provisions of the present law, whether general or special, applying to any such city and relating to appeals and to the conduct of all proceedings, suits and prosecutions, before either or both of the courts first above mentioned in this proviso, shall remain in full force and effect and shall be followed by such court and the judge or justice thereof into which they shall be so consolidated; and that any such city may also in its charter provide that the civil jurisdiction of such judge or justice ex contractu and ex delicto shall be increased to $500.00 with such exceptions and restrictions as are provided by law; and that such city may also in its charter provide that such judge or justice shall have the same power and authority to set aside a verdict or judgment and grant a new trial therein, upon legal cause, therefor, as the circuit courts of the state possess: Provided, however, That a motion in writing be made and filed with the judge or justice before whom such cause was tried, within 5 days after the rendition of the verdict or judgment in said case, which said motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by affidavits setting forth the facts relied upon to be filed at the time of filing the said motion, and notice of hearing of such motion, with copy of the motion and affidavits, filed as aforesaid, shall be served upon the adverse party or his attorney at least 2 days before the hearing thereof, and such motion shall be determined within 2 days after the same shall have been heard and submitted and such motion shall be submitted and heard within 1 week after the same shall have been filed, and the time for taking an appeal from judgment, in case such motion be not granted, shall begin to run from the time when such motion shall be overruled and in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of a levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion; and that such city may also in its charter provide that the city commission or common council shall fix the salary of such judge or justice; and such city may also in its charter provide that the city commission or the common council may provide for a clerk and 1 or more deputy clerks for such judge or justice to be paid such salary, give such bond and perform such duties as shall by ordinance be prescribed and such clerk and deputy clerks shall also, by virtue of their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and to issue all processes and test the same in the name of such judge or justice and shall be required to collect all fees in civil causes and all costs and fines in criminal causes and all moneys paid into court for security for costs, bail or otherwise and to enter a record of the same in books kept by him for that purpose

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and to pay over the same to the authorities of the city or county or other persons entitled to the same, as directed by the proper authorities or by law, and the legislative body of such city shall cause the books of such clerks to be audited at least once each year to ascertain that such books are correctly kept and all moneys received have been properly accounted for; and that such city may also in its charter provide that any cause pending before any such judge or justice may, whenever such judge or justice is unable to act in such cause at the time the matter comes before him, be transferred upon his order or, in case of his absence, by the clerk to 1 of the justices of the peace of the county in which such city is located without any notice to the parties in such cause, but a note of such transfer shall be entered upon the docket of the case, and when 2 or more judges or justices shall have acted in any 1 cause or proceeding, the docket shall be signed in the manner and within the time provided by law by the judge or justice who shall have given the final judgment in such cause; and such city may also in its charter provide for a court officer for such court who shall have all of the duties and powers of court officer in the circuit courts of this state; and such city may also in its charter provide that jury cases may be set for trial upon 1 or more certain days of each month, or as soon thereafter as such trial can be reached, and may establish terms for the trial of jury cases, and may provide that a panel of jurors shall be drawn and certified to the clerk of such court in the manner provided by law for the drawing of circuit jurors in the county in which such city is located, and may determine the number of jurors to be drawn for each panel to serve at each term of such court. The selection of jurors to serve in each case shall be made as nearly as may be, in the same manner as provided in circuit courts, but the trial of such cause by jury shall be otherwise conducted as provided by law for trials by jury before justices of peace in townships, and further that as soon as all jury cases set for any term, and ready for trial, shall have been disposed of, the panel of jurors called for said term shall be discharged: Provided, however, That when there is no jury in attendance in said court, the judge or justice thereof, in order to avoid hardship from delay, may, in his discretion, order a jury impaneled in accordance with the method provided by law to secure a jury in trials before justices of the peace in townships; and such city may also in its charter provide that it shall be the duty of said judge or justice to instruct the jury as to the law applicable to the case, which instructions shall be received by the jury as the law of the case; and such city may also in its charter provide that such court shall be known as a municipal court and that said judge or justice shall be designated as municipal judge: Provided also, That any city may in its charter provide for and limit to 1 or more the number of justices of the peace for said city and may provide that the civil jurisdiction of such justice or justices ex contractu and ex delicto shall be increased to $500.00 with such exceptions and restrictions as are provided by law; and may also provide that such justice or justices shall have the same power and authority to set aside the verdict or judgment and grant a new trial therein, upon legal cause shown, therefor, as the circuit courts of the state possess: Provided, however, That a motion in writing be made and filed with the justice, before whom such cause was tried, within 5 days after the rendition of the verdict or judgment in said case, which said motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by affidavits setting forth the facts relied upon to be filed at the time of filing the said motion, and notice of hearing of such motion, with copy of the motion and affidavits, filed as aforesaid, shall be served upon the adverse party or his attorney at least 2 days before the hearing thereof, and such motion shall be determined within 2 days after the same shall have been heard and submitted and such motion shall be submitted and heard within 1 week after the same shall have been filed, and the time for taking an appeal from judgment, in case such motion be not granted, shall begin to run from the time when such motion shall be overruled and

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in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of a levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion; and may also in its charter, or by ordinance, provide that any such justice or justices of the peace shall be paid a salary in lieu of fees, and the amount of said salary to be fixed by said charter or ordinance, in which case all fees chargeable by such justice of the peace shall be collected and paid over to such city; and that any city may also, in cases where its justice or justices of the peace have been placed on salary, provide in its charter or by ordinance for a clerk and 1 or more deputy clerks for such justice or justices of the peace to be paid such salary, give such bond and perform such duties as shall by charter or ordinance be prescribed and such clerk and deputy clerks shall also, by virtue of their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and to issue all processes and test the same in the name of either or any of the justices of the peace of the city and shall be required to collect all fees in civil causes and all costs and fines in criminal causes and all moneys paid into court for security for costs, bail or otherwise, and to enter a record of the same in a book kept by him for that purpose and be paid over by him to the authorities of the city or county or other persons entitled to the same, as directed by the proper authorities or by law and the legislative body of such city shall cause the books of such clerks to be audited at least once each year to ascertain that such books are correctly kept and that all money received has been properly accounted for; and may also provide that any cause pending before any justice of the peace of said city may, whenever such justice is unable to act in such cause at the time the matter comes before him, be transferred upon his order or, in case of his absence, by the clerk to 1 of the other justices of the peace of such city without any notice to the parties in the cause, but a note of such transfer shall be entered upon the docket of the case and when 2 or more justices shall have acted in any 1 cause or proceeding the docket shall be signed in the manner and within the time provided by law by the justice who shall have given the final judgment in such cause; and, in cases where such justices have been placed on salary and a clerk or clerks have been provided, such city may, by charter or ordinance, provide that jury cases may be set for trial upon 1 or more certain days of each month, or as soon thereafter as such trial can be reached, and to establish terms for the trial of jury cases and may provide that a panel of jurors shall be drawn and certified to the clerk of such justice court in the manner provided by law for the drawing of circuit court jurors in the county where such city is located, and shall determine the number of jurors to be drawn for each panel to serve at each term of such justice court. The selection of jurors to serve in each case shall be made, as nearly as may be, in the same manner as provided in circuit courts, but the trial of such cause by jury shall be otherwise conducted as provided by law for trials by jury before justices of the peace in townships, and further that as soon as all jury cases set for any term, and ready for trial, shall have been disposed of, the panel of jurors called for said term shall be discharged: Provided, however, That when there is no jury in attendance in said court the justice thereof, in order to avoid hardship from delay, may, in his discretion, order a jury impaneled in accordance with the method provided by law to secure a jury in trials before justices of the peace in townships.

HISTORY: Am. 1911, p. 356, Act 203, Eff. Aug. 1;—Am. 1915, p. 146, Act 82, Eff. Aug. 24;—CL 1915, 3331;—Am. 1917, p. 705, Act 275, Eff. Aug. 10;—Am. 1919, p. 214, Act 118, Eff. Aug. 14;—Am. 1927, p. 38, Act 32, Imd. Eff. Apr. 12;—CL 1929, 2264;—CL 1948, 117.28;—Am. 1954, p. 94, Act 75, Eff. Aug. 13;—Am. 1965, p. 704, Act 359, Eff. Mar. 31, 1966.

117.28a Municipal courts in cities in certain counties; civil jurisdiction.

Sec. 28-a. In counties having a population of less than 100,000 in which municipal courts are now or may be established, said courts shall have such jurisdiction in civil

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causes in all townships throughout the county up to the amount of the jurisdiction of said court.

HISTORY: Add. 1933, p. 388, Act 241, Eff. Oct. 17;—CL 1948, 117.28a.

117.28b Municipal courts in cities in certain counties; attorney fees based on amount of judgment.

Sec. 28b. In all cases, in any municipal court now or hereafter established under the provisions of this act, where a contested trial takes place, and in all cases where an appearance has been entered by an attorney at law in behalf of the opposite party, if the plaintiff was the prevailing party and was represented by a legally licensed attorney and counsel, shall be entitled to tax, as an attorney fee, the sum of $10.00 in case of rendition of a judgment of $300.00 or less, and $15.00 in case of rendition of a judgment of over $300.00; and, if the defendant is the prevailing party and was represented by a legally licensed attorney and counsel, he shall be entitled to tax, as an attorney fee, the sum of $10.00 in case the plaintiff sought in his pleadings to recover a judgment of $300.00 or less, and $15.00 in case the plaintiff sought in his pleadings to recover a judgment of over $300.00.

HISTORY: Add. 1949, p. 298, Act 241, Eff. Sep. 23.

117.29 Election of justice; powers, duties.

Sec. 29. In each new city organized under this act, there shall be elected, until otherwise provided by law, 1 justice of the peace who shall have and exercise the same jurisdiction and powers in all civil and criminal matters, causes, suits and proceedings, and shall perform the same duties in all respects, so far as occasion may require, as are or may be conferred upon or required of justices of the peace in townships under the general laws of the state. He shall also have authority to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties and forfeitures imposed by the charter and ordinances of the city, and to punish offenders for the violation of such charter and ordinances, as in such charter or ordinances prescribed and directed.

HISTORY: CL 1915, 3332;—CL 1929, 2265;—CL 1948, 117.29.

117.30 Justice courts; laws governing.

Sec. 30. The proceedings in all suits and actions before said justice and in the exercise of the powers and duties conferred upon and required of him shall be according to and be governed by the general laws applicable to justices' courts and to the proceedings before such courts; and in all suits and prosecutions arising under the charter and ordinances of such city the right of appeal or certiorari from said courts to the circuit court of the county, or to any court having jurisdiction, shall be allowed to the parties, or any or either of them, and the same recognizance or bond shall be given as is or may be required by law in case of appeal or certiorari from justices' courts in analogous cases.

HISTORY: CL 1915, 3333;—CL 1929, 2266;—CL 1948, 117.30.

GENERAL LAW: JUSTICE COURTS: See notes to Compilers' § 117.28.

APPEAL BONDS AND RECOGNIZANCES: In criminal cases, see Compilers' § 774.34.

117.31 Justice courts; docket entries; public inspection; moneys, disposition.

Sec. 31. Such justice of the peace shall enter in the docket kept by him the title of all suits and prosecutions commenced or prosecuted before him for violations of the charter and ordinances of the city, and all the proceedings and the judgment rendered in such cause and the items of all costs taxed or allowed therein; and also the amounts and dates of payment of all fines, penalties and forfeitures, moneys and costs received by him on account of such suit or proceeding. Such docket shall be submitted by the justice at all reasonable times to the examination of any person desiring to examine the

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same and shall be produced by the justice to the common council of the city whenever required. All fines, penalties, forfeitures and moneys collected or received by such justice for or on account of violations of any provisions of the charter or ordinances of the city, shall be paid over by such justice to the city treasurer on or before the first day of the next month after the collection or receipt thereof; and the justice shall take the receipt of the city treasurer therefor and file the same with the city clerk.

HISTORY: CL 1915, 3334;—CL 1929, 2267;—CL 1948, 117.31.

117.32 Constables; election, powers, additional constables; salaries; certain cities exempted.

Sec. 32. There shall also be elected or appointed in each city at least 1 constable who shall have like powers and authorities in matters in civil and criminal nature, and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. He shall have power also to serve all process issued for breaches of ordinances of the city: Provided, however, That a city may by ordinance provide for the appointment of additional constables except that the maximum number of persons who may be appointed as constables shall not exceed the number of elected constables now provided for in the charter of said city. Any appointed or elected constable may be paid a salary in addition to fees.

(a) The provisions of this section shall not apply to cities which now or may hereafter have a population of 500,000 or more.

HISTORY: CL 1915, 3335;—CL 1929, 2268;—CL 1948, 117.32;—Am. 1949, p. 72, Act 71, Eff. Sep. 23.

CONSTABLES IN TOWNSHIPS: See Compilers' § 41.80 et seq.

117.33 Justices, constables; election, compensation.

Sec. 33. The provisions of the general law applying to the election, qualification and compensation of justices of the peace and constables in townships shall apply to the justices of the peace and constables above provided for except that in the first instance they shall be elected at the first election at which other city officers are chosen and the first incumbents shall hold office only until the next regular election for such officers as fixed by the state law: Provided, That the charter of any city may provide for placing any such justice of the peace on a salary instead of on a fee basis, and for the election of 2 such justices instead of 1.

HISTORY: CL 1915, 3336;—CL 1929, 2269;—CL 1948, 117.33.

TOWNSHIPS: See Compilers' § 41.80 et seq.

117.34 Police officers; powers.

Sec. 34. When any person has committed or is suspected of having committed any crime or misdemeanor within a city, or has escaped from any city prison, the police officers of the city shall have the same right to pursue, arrest and detain such person without the city limits as the sheriff of the county.

HISTORY: CL 1915, 3337;—CL 1929, 2270;—CL 1948, 117.34.

CHIEF OF POLICE: Drowned bodies, powers and duties with respect to recovery, see Compilers' §§ 51.301 and 51.302.

117.35 Acquisition of property; condemnation or purchase proceedings.

Sec. 35. Any city may acquire by purchase or condemnation proceedings any lands within or without its corporate limits necessary for disposing of sewage or for obtaining or protecting a water supply for the city and the inhabitants thereof, and may acquire by purchase or condemnation proceedings when authorized by the electors of such city any public utility and any water power and water rights for the use of such city within the corporate limits of said city. The jury in condemnation proceedings shall consist of 12 freeholders drawn from the body of the county and if they find the necessity for such use exists and, in case of sewage that the use proposed will not materially injure the health or safety of persons living adjacent to the land, they shall award the compensation to be paid therefor. Other proceedings in such cases shall

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conform to the general law authorizing cities and villages to take or hold land or property outside of their corporate limit as contained in chapter 90 of the Compiled Laws of 1897, or any other appropriate act now or hereafter existing.

HISTORY: Am. 1913, p. 14, Act 5, Imd. Eff. March 11;—CL 1915, 3338;—CL 1929, 2271;—CL 1948, 117.35.

NOTE: Ch. 90, CL 1897, above referred to, is Compilers' repealed § 213.71 et seq. See § 213.21 et seq.

117.35a General obligation bonds; issuance, conditions.

Sec. 35a. Any municipality now or hereafter having a population of one million or more may issue general obligation bonds and other evidences of debt for all lawful purposes in accordance with the provisions of state law, but subject to the overall debt limitations provided by state law or charter of any such city. No charter shall allocate the debt limitation or any part thereof to specific purposes.

HISTORY: Add. 1966, p. 55, Act 30, Imd. Eff. May 3.

117.36 Charter provisions; conflict.

Sec. 36. No provision of any city charter shall conflict with or contravene the provisions of any general law of the state.

HISTORY: CL 1915, 3339;—CL 1929, 2272;—CL 1948, 117.36.

117.37 Saving clause.

Sec. 37. All charters heretofore formulated and all proceedings of charter commissions heretofore had under this act are hereby validated and made effectual so far as the same shall conform to and be within the provisions of this act as amended.

HISTORY: Add. 1911, p. 357, Act 203, Eff. Aug. 1;—CL 1915, 3340;—CL 1929, 2273;—CL 1948, 117.37.

117.38 Construction of act.

Sec. 38. It is intended by this act to re-enact sections 21, 22, 23 and 24, as above amended pursuant to the adoption of the amendment to section 21 of article 8 of the state constitution by vote of the electors on November 5, 1912, so that cities under existing charters heretofore granted by the legislature shall have the same right and power to amend such charters under the act hereby amended as cities that have adopted complete charter revisions.

HISTORY: Add. 1913, p. 14, Act 5, Imd. Eff. March 11;—CL 1915, 3341;—CL 1929, 2274;—CL 1948, 117.38.

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CHAPTER 119. METROPOLITAN DISTRICTS

METROPOLITAN DISTRICTS
Act 312 of 1929

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Act 312, 1929, p. 850; Eff. Aug. 28.

AN ACT to provide for the incorporation by any 2 or more cities, villages or townships, or any combination or parts of same, of a metropolitan district or districts comprising territory within their limits for the purpose of acquiring, owning and operating, either within or without their limits as may be prescribed herein, parks or public utilities for supplying sewage disposal, drainage, water, or transportation, or any combination thereof; to provide that any such district may sell or purchase, either within or without its limits as provided herein, sewage disposal, drainage rights, water, or transportation facilities; to provide that any such district shall have power to acquire and succeed to any or all of the rights, obligations and property of such cities, villages and townships respecting or connected with such functions or public utilities but subject to the approval thereof by a majority vote of the electors thereof voting thereon; to limit the rate of taxation of such districts for their municipal purposes and restrict their powers of borrowing money and contracting debts; to provide the method and vote by which charters may be framed, adopted and amended and laws and ordinances relating to its municipal concerns may be enacted and to define the powers, rights and liabilities of any such district.

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The People of the State of Michigan enact:

119.1 Metropolitan districts; purposes; body corporate.

Sec. 1. Any 2 or more cities, villages or townships or any combination or parts thereof, may incorporate into a metropolitan district or districts comprising territory within their respective limits for the purpose of acquiring, owning, operating and maintaining either within or without their limits, as may be established hereunder, parks or public utilities for supplying sewage disposal, drainage, water or transportation or any combination thereof. Each organized district hereunder shall be a body corporate.

HISTORY: CL 1929, 2275;—CL 1948, 119.1.

CITED IN OTHER SECTIONS: Sections 119.1 to 119.15 are cited in § 123.352.

119.1a Metropolitan districts; short title.

Sec. 1a. This act shall be known and may be cited as "The metropolitan district act."

HISTORY: Add. 1945, p. 47, Act 50, Eff. Sept. 6;—CL 1948, 119.1a.

119.2 Metropolitan district; powers; referendum.

Sec. 2. Any district incorporated under this act shall have the power to acquire, own, operate and maintain within or without its limits, parks or public utilities for supplying sewage disposal, drainage, water or transportation or any combination thereof or such of said powers as may be designated in its charter. Any such district may sell or purchase, either within or without its limits, sewage disposal or drainage rights, water or transportation facilities or any combination thereof if so provided by its charter. Any such district shall have the power to acquire and succeed to any or all of the rights, obligations and property of any city, village or township, or any parts thereof, comprising territory within the limits of the district, respecting, affiliated or connected with such functions or public utilities, or any combination thereof: Provided, That no city, village or township shall surrender any such rights, obligations or property without the approval thereof by a majority vote of the electors of any such city, village or township voting on such proposition.

HISTORY: CL 1929, 2276;—CL 1948, 119.2.

119.3 Mandatory charter provisions.

Sec. 3. Any district incorporated under the provisions of this act shall in its charter provide:

District officers.

(a) For the nomination, election or appointment of all district officers. Nominations and elections may be made in any manner not inconsistent with law and as the charter of any district may prescribe.

Officers; records; taxation.

(b) For the qualifications, duties and compensation of its officers; for the time, manner and means of holding elections and the registration of electors; for the keeping in the English language a written or printed journal of every session of the legislative body, which records shall be public; for publication of ordinances before they become effective; for adopting, continuing, amending or repealing of ordinances; for a system of accounts which shall conform to any uniform system required by law; for the levy, collection and return of taxes for district purposes and for the annual appropriation of money for district purposes: Provided, All taxes and appropriations shall be levied, collected and returned through the proper assessing and taxation officer or officers of each city, village or township or parts of same comprising said metropolitan district in the same manner as near as may be that other city, village or township taxes are levied, collected and returned. The district legislative body or other officer or officers

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charged with such duty shall ascertain the total taxes or appropriation required for any year and shall thereupon certify to the proper assessing officer or officers of the city, village or township or parts of same comprising said district its proportionate share thereof based upon the ratio that the total assessed valuation of each respective city, village or township, or parts of same, bears to the total assessed value of all property real and personal in said entire district according to the last assessment in each of said respective units. Such sum so certified shall be a direct obligation of each city, village or township or part of same and shall be paid to the metropolitan district on or before the next tax payment period. Said sum shall be levied, collected and returned by each city, village or township in the same manner as other general taxes.

Sinking fund.

(c) For a sinking fund as provided by any general law applicable to cities.

Taxation subjects.

(d) That the subjects of taxation for district purposes shall be the same as for state, county and school purposes under the general law: Provided, however, That the provisions of this section as to taxes and the levy, collection and return thereof shall not apply to or be required in the charter of any metropolitan district incorporated for the purpose of the purchase, acquisition or construction of any project or projects, or improving, enlarging, extending or repairing thereof, authorized under the provisions of Act No. 94 of the Public Acts of 1933, as amended, but said charter shall contain provisions relative to the issuance of revenue bonds as in said act provided.

HISTORY: CL 1929, 2277;—Am. 1935, p. 87, Act 56, Imd. Eff. May 13;—CL 1948, 119.3.
NOTE: Act 94, 1933, above referred to, is Compilers' § 141.101 et seq.
TAXATION: In general, see Compilers' § 211.1 et seq.

119.4 Permissive charter provisions.

Sec. 4. Each district incorporated under the provisions hereof may provide in its charter:

Taxes.

(a) For annually laying and collecting taxes in a sum not to exceed 1/2 of 1 per centum of the assessed value of all real and personal property in the district.

Borrowing power; bonds; sinking fund.

(b) For borrowing money on the credit of the district in a sum not to exceed 2 per centum of the assessed value of all real and personal property in the district for the purpose of acquiring, owning, purchasing, constructing, maintaining or operating parks or public utilities for supplying sewage disposal, drainage, water or transportation, or any combination thereof: Provided, That any such district may borrow money and issue bonds for any of the above purposes or any combination thereof which will impose no liability upon the district but which may be paid and secured only by special assessment levied against each parcel for the particular public improvement herein provided for and for the payment of which bonds are issued: Provided further, That any district incorporated under the provisions hereof, may, for the purpose of acquiring, owning, purchasing, constructing or operating any public utility herein provided for, issue mortgage bonds therefor, or any combination thereof, which said mortgage bonds may be issued beyond the general limit of bonded indebtedness prescribed by this act: Provided, That such mortgage bonds issued beyond the general limits of bonded indebtedness shall not impose any liability upon the district but shall be secured only upon the property and revenues of such public utility, including the franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than 20 years from the date of such sale of such utility and franchise on foreclosure: And provided, That said mortgage bond shall be sold for not less than par, bear interest at a rate not

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in excess of 6 per centum, and the total amount thereof shall not exceed 60 per centum of the original cost of the utility: And provided further, That the charter of any such district shall provide for the creation of a sinking fund by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity.

Improvements.

(c) For a lien on any property and for taxes for the payment of any bonds issued or for the cost and expense of making any improvement herein provided for.

Rents, tolls, excises.

(d) For laying and collecting rents, tolls and excises.

Public utility, cost.

(e) For a special assessment district to provide for the cost and expense of any park or public utility, or combination thereof, herein provided for.

Franchises, public utility, acquisition; contract; referendum; sinking fund.

(f) For the purchase or condemnation of the franchises, if any exist, and of the property used in the operation of companies or individuals engaged in or operating public utilities for supplying sewage disposal, drainage, water or transportation, or any combination thereof. And each district may in its charter provide that it may make a contract upon such terms, including terms of present or deferred payment and upon such conditions and in such manner as the district may deem proper, to purchase, operate and maintain any existing public utility property for supplying sewage disposal, drainage, water or transportation, or any combination thereof within or without its limits; if without its limits then such purchase must be incidental to the operation and maintenance of such public utility. No such contract shall bind the district unless the proposition therefor shall receive the affirmative vote of 3/5 of the electors voting thereon at a regular or special election. In the event of any such purchase the charter amendment and the contract to purchase shall provide for the creation of a sinking fund, into which shall be paid from time to time, from the earnings of the utility, sums sufficient to insure the payment of the purchase price and the performance of the obligations of said contract to the end that the entire cost of such public utility shall eventually be paid from its earnings. The powers in this subdivision contained shall be in addition to the powers provided for in the other subdivisions of this act and particularly this section, and the exercise thereof shall not impair or affect the right to exercise any of the powers in the other subdivisions of this section conferred.

Condemnation.

(g) For the purchase, gift or condemnation of private property for any public use or purpose herein provided for and within the scope of its power. If by condemnation the provisions of Act 149 of the Public Acts of Michigan, approved March twenty-fifth, 1911, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms 'public corporations', 'state agencies' and 'private property' as used herein", or such other appropriate provisions therefor as exist or shall be made by law may be adopted, and used for the purpose of instituting and prosecuting such condemnation proceedings.

Initiative, referendum, recall.

(h) For the initiative and referendum on all matters within the scope of its powers and for the recall of all its officials.

Charter changes.

(i) For altering, amending or repealing any charter affecting the district.

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Regulations, enforcement.

(j) For the enforcement of all such local, police, sanitary and other regulations as are not in conflict with general laws.

Civil service.

(k) For a system of civil service.

Business powers; acquisition of rapid transit company.

(l) For the exercise of all district powers in the management and control of district property and in the administration of metropolitan district government, whether such powers be expressly enumerated or not; for any act to advance the interest of the district, the good government and prosperity of the district and to pass all laws and ordinances relating to its concerns subject to the constitution and general laws of the state: Provided, That the power to acquire a rapid transit system is expressly conferred by this act which may consist of a tunnel, subway, surface or elevated system or any combination thereof and said rapid transit system shall be deemed to be transportation within the meaning of this act and the provisions hereof relating to other public utilities shall apply thereto.

HISTORY: CL 1929, 2278;—CL 1948, 119.4.

NOTE: Act 149 of 1911, above referred to, is Compilers' §§ 213.21 to 213.41.

COST-PLUS CONTRACTS: Prohibited in certain cases, see Compilers' §§ 17.41 and 17.42.

119.5 Restrictions of district's power.

Sec. 5. No district shall have power:

Salary, term of office, change in.

(a) To change the salary or emoluments of any public official after his election or appointment or during his term of office; nor shall the term of any public official be shortened or extended beyond the period for which he was elected or appointed, unless he resign or be removed for cause where such office is held for a fixed term.

Referendum, failure.

(b) To adopt a charter or any amendment thereto unless approved by a majority of the electors of each city, village or township, voting on such charter or amendment; to sell any public utility unless approved by a majority vote of the electors of each city, village or township voting on such proposition.

Contract with defaulter.

(c) To make any contract with, or give any official position to anyone who is in default to the district or city, village or township comprising same.

Bonds.

(d) To issue any bonds without providing a sinking fund to pay them at maturity, but no sinking fund shall be required in the case of serial bonds which fall due annually.

Debts.

(e) To repudiate any debt by any change in its charter or by consolidation with any other municipality.

HISTORY: CL 1929, 2279;—CL 1948, 119.5.

119.6 Incorporation; procedure; charter commission to prepare budget.

Sec. 6. Proceedings for the incorporation of metropolitan districts shall be originated as follows: Any city, village or township may, by a resolution adopted by its legislative body, have prepared a description in general terms of the district proposed to be included in a metropolitan district. Each city, village or township desiring to become a part of said district shall thereupon by appropriate resolution of its legislative

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body indicate its desire to become a part of same. If a part of a city, village or township shall desire to institute said proceedings or become a part of any proposed district like resolutions may be passed by the legislative body of such city, village or township upon petition to its legislative body signed by not less than 5 per cent of the registered voters in said part of a city, village or township. In said resolution or any subsequent resolution the legislative body of each city, village or township shall designate a person as its representative on a charter commission: Provided, Any city now or hereafter having a population of 50,000 or more inhabitants as determined by the last federal decennial census or by any federal decennial census hereafter taken shall for the first 200,000 population be entitled to an additional charter commissioner for each additional 50,000 population or major fraction thereof, and for all population above 200,000, an additional commissioner for each additional 100,000 population or major fraction thereof. Said commission shall thereupon meet upon written call of any of its members at a time and place to be designated in said notice and elect a president, a vice-president, a secretary and a treasurer and such other officers as it shall deem necessary. The commission shall thereupon prepare a budget of the expenses to be incurred therewith and shall apportion same to each city, village or township upon the basis that the total assessed valuation each city, village or township bears to the whole assessment of said area. Each city, village or township shall pay its representative or representatives the sum of $5.00 per day for each day of actual attendance at meetings of said commission: Provided, The total sum so paid each commissioner shall not exceed the sum of $500.00. The legislative body of any city, village or township may from time to time fill any vacancy existing in its representation on said commission. The members of said commission shall take the constitutional oath of office before the county clerk. A majority shall constitute a quorum for the transaction of all business. The legislative body of any city, village or township may, by resolution, express its desire to be included in said district at any time after the organization of the commission and the commission is authorized to take such action thereon as in its judgment is deemed advisable.

HISTORY: CL 1929, 2280;—Am. 1945, p. 47, Act 50, Eff. Sept. 6;—CL 1948, 119.6.

119.7 Charter commission; powers, duties; election.

Sec. 7. The charter commission shall proceed to adopt a name for said district and frame a charter for said district as soon thereafter as practicable. It shall determine the rules of its proceedings and keep a journal. A roll call of its members on any question shall be entered on the journal at the request of any member. It shall provide the manner of nominating the candidates for the first elective officers, if any, provided in the proposed charter. It shall fix the date of the first district election and do and provide all other things necessary for making such nominations and holding such elections. Such election may be held on the same date as a general, special or primary election. It shall publish such proposed charter in 1 or more newspapers published in said district at least once and not less than 2 weeks and not more than 4 weeks preceding said election, together with a notice of said election, and that on the date fixed therefor the question of adopting such proposed charter will be voted on, and that the elective officers provided for therein will be elected on the same date. Notice of such election shall also be posted in at least 10 public places within each city, village or township in said proposed district not less than 10 days prior to such election. Said commission shall provide for polling places for said election and all other election requirements through the regularly constituted officers for conducting elections in each city, village and township who shall appoint the inspectors of said election and the canvassing board of 3 electors to canvass the votes at such election and shall conduct said elections as near as may be in the manner of any regular election. Said commission shall

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have authority to study the area proposed to be included in said metropolitan district and submit recommendations to the legislative bodies of any city, village or township to amend its original resolution in regards to same. Said charter shall state with certainty the territory proposed to be included.

HISTORY: CL 1929, 2281;—CL 1948, 119.7.

119.8 Charter rejection; unfavorable vote, charter provision; resubmission proceedings.

Sec. 8. If the proposed charter be rejected at such election, any election of officers therein provided shall be void. Said commission shall reconvene upon a call of its president or the written request of a majority of its members and the proposed charter amended in such manner as may be deemed desirable. Any proposed charter may contain a provision that in the event of an unfavorable vote by any city, village or township or part of such a political subdivision, that said charter shall be deemed effective as to all other cities, villages or townships or parts of such political subdivision voting favorably thereon and that any officers elected at said election shall be valid. In the absence of such a provision in the charter and in the event that a city, village or township or part of same included has voted unfavorably on a proposed charter said city, village or township may be dropped from said proposed metropolitan district by the charter commission and the proposed boundaries corrected accordingly. Said proposed charter as amended may be then resubmitted to the qualified electors of the city, village and township or parts of same a second time in the same manner and with like notice and proceedings as required in the first instance, which proceedings in case of the rejection of said proposed charter may be continued a third time with like powers. In the event of a third rejection of same the powers and duties of the charter commission shall be at an end.

HISTORY: CL 1929, 2282;—CL 1948, 119.8.

119.9 Charter amendment; proceedings, form.

Sec. 9. Any metropolitan district charter passed pursuant to the provisions of this act may from time to time be amended in the manner following: An amendment may be proposed by the legislative body of the district on a 3/5 vote of the members or by an initiatory petition as herein provided, and in case the same is proposed by the legislative body of the district then the same shall be submitted to the electors of the city, village or township comprising such district as herein provided at the next primary, regular or special election held in such city, village or township which shall occur not less than 30 days after the proposal of such amendment, and in case the amendment is proposed by the initiatory petition as herein provided, then the same shall be submitted to the electors of such city, village or township as herein provided at the next primary, regular or special election held in such district which shall occur not less than 40 days following the filing of such petitions. The form in which the proposed amendment to a district charter shall be submitted on the ballot unless provided for in the initiatory petition shall be determined by resolution by the legislative body, and when provided for by the initiatory petition, the legislative body may add such explanatory matter as shall be deemed advisable.

HISTORY: CL 1929, 2283;—CL 1948, 119.9.

119.10 Charter amendment; submission to governor; procedures after submittal.

Sec. 10. Every amendment to a district charter before its submission to the electors and every charter before final adjournment of the commission, shall be transmitted to the governor of the state. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the district with his objection thereto, which shall be spread at large on the journal of the

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body receiving them, and if it be an amendment proposed by the legislative body, such body shall reconsider it and if 2/3 of the members agree to pass it, it shall be submitted to the electors. If it be an amendment proposed by an initiatory petition it shall be submitted to the electors notwithstanding such objections.

HISTORY: CL 1929, 2284;—CL 1948, 119.10.

119.11 Charter or amendment; publication; independent propositions, authorizing vote.

Sec. 11. Every district charter or amendment thereto shall be published as the commission or legislative body respectively may prescribe. There may be submitted with any charter or amendment independent sections or propositions and such of them as receive a 3/5 vote of the electors of each city, village or township voting thereon shall become a part of such charter or shall prevail as amendments or propositions.

HISTORY: CL 1929, 2285;—CL 1948, 119.11.

119.12 Charter or amendments; copies, filing.

Sec. 12. If the charter or any amendment thereto of any district incorporated under the provisions of this act be approved, then 2 printed copies thereof with the vote for and against duly certified by the secretary of the commission, shall, within 30 days after the vote is taken, be filed with the secretary of state and a like number with the county clerk or clerks of the county or counties in which the district is located and shall thereupon become law.

HISTORY: CL 1929, 2286;—CL 1948, 119.12.

119.13 Initiatory petition; filing; checking; submission to voters; insufficiency.

Sec. 13. The initiatory petition herein referred to shall be addressed to and filed with the secretary or clerk of the metropolitan district wherein the territory is located. Such petition shall state what body or organization, if any, or if no body or organization, then what person or persons are primarily interested in and responsible for the circulation of such petition or petitions and the securing of such amendment or amendments. Such petitions shall be verified by the affidavit or affidavits of the person or persons who obtained the signatures and shall be signed by a number of registered electors equal to 5 per centum of the highest vote cast for the highest elective officer whose vote can be ascertained at the last district election. Such verification shall state that the petitions were circulated at the request of and pursuant to the directions of the association, organization, person or persons desiring the said amendment and shall also state that such signatures were obtained by the persons so verifying said petition; that such signatures are the signatures of the persons purporting to sign the same and that each of them signed in his presence and that the person verifying such petition has good reason to believe and verily does believe that the signers obtained thereto are duly qualified and registered electors of such district and are the identical persons their signatures purport to be. Within 15 days from the date of the receipt of any such petition the secretary or clerk shall check over the names on such petition with the registration rolls of the territory affected or in some other proper manner determine whether the petitioners are duly qualified and registered voters of the district whose charter is to be affected by such amendment, and if it shall appear that the number of duly qualified and registered electors signing such petition equals or exceeds 5 per centum of the total vote cast for the highest elective officer whose vote can be ascertained at the last district election and in all other respects conforms to the provisions of this section, he shall certify to such facts and report the same to the legislative body of the district. If he shall find that there are less than the required number he shall report such fact and no further action upon such petitions shall be had. When such petition shall conform to this act, it shall be the duty of the clerk of

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each city, village and township comprising the district within 60 days of the date of the filing of such petition to call a special election, the same to be held not less than 90 days or more than 100 days after the date of filing such petition unless a primary or regular election shall occur or a special election shall have been called for other purposes to be held within 100 days after the date of the filing of such petitions. In that event, the proposal shall be submitted at such primary, regular or special election and no special election shall be so called. Other proposals, whether initiated by petition as hereinbefore provided, or proposed by the legislative body, within the times respectively within this act provided, may be submitted at such special election. No proposal submitted to the electors by the initiative and receiving an affirmative majority of the votes cast thereon in each city, village and township comprising said district shall be held unconstitutional, invalid or void on account of the insufficiency of the petition by which submission of the same was procured: Provided, That each signer of such initiatory petition shall inscribe upon such petition immediately after his signature the date of signing and his street address.

HISTORY: CL 1929, 2287;—CL 1948, 119.13.

Sec. 14. (This was a severing clause section.)

HISTORY: CL 1929, 2288;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

119.15 Metropolitan districts; short title.

Sec. 15. This act shall be known and may be cited as the metropolitan district act.

HISTORY: CL 1929, 2289;—CL 1948, 119.15.

Act 147, 1939, p. 290; Eff. Jan. 10, 1942.

AN ACT to provide for the incorporation of the Huron-Clinton metropolitan authority; to permit the counties of Wayne, Washtenaw, Livingston, Oakland, and Macomb, or certain of such counties, to join in a metropolitan district for planning, promoting, and/or for acquiring, constructing, owning, developing, maintaining and operating, either within or without their limits, parks, connecting drives, and/or limited access highways; to provide for the assessment, levy, collection and return of taxes therefor; to provide for the issuance of revenue bonds; to authorize condemnation proceedings; and to provide a referendum thereon.

The People of the State of Michigan enact:

119.51 Huron-Clinton metropolitan authority; incorporation, counties.

Sec. 1. As may hereinafter be provided in this act, the counties of Wayne, Washtenaw, Livingston, Oakland, and Macomb, or certain of such counties, may by vote of the electorate thereof, join to form a metropolitan district as a body corporate, to be known as the Huron-Clinton metropolitan authority, for the purpose of planning, promoting, and/or for acquiring, constructing, owning, developing, maintaining and operating, either within or without their limits, parks and/or limited access highways, as well as such connecting drives as may be deemed necessary or convenient to provide access to and between the same.

HISTORY: CL 1948, 119.51.

NOTE: This act has been adopted by all the above named counties.

119.52 Huron-Clinton metropolitan authority; definitions.

Sec. 2. As used in this act, parks shall be defined as areas of land, with or without water, developed and used for public recreational purposes, including landscaped tracts, picnic grounds, playgrounds, athletic fields, camps, foot, bicycle and bridle paths, motor vehicle drives, wildlife sanctuaries, museums, zoological and botanical

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gardens, facilities for bathing, boating, hunting and fishing, as well as other recreational facilities for the use and benefit of the public.

Limited access highways shall be defined as highways especially designed for through traffic, over which owners or occupants of abutting land have no easement or right of light, air or access by reason of the fact that their property abuts on the highway. Such highways may be parkways, with or without landscaped roadsides, from which trucks, busses and other commercial vehicles are excluded, or they may be freeways open to use by all common forms of highway traffic.

Connecting drives shall be defined as boulevards, or free access roads, with or without parklike features, leading to or connecting parks and/or limited access highways.

HISTORY: CL 1948, 119.52.

119.53 Powers; co-operation; charges; succession to rights; vote.

Sec. 3. The Huron-Clinton metropolitan authority, either acting alone or in cooperation with the department of conservation, the state highway department, any board of county road commissioners, or any federal or other state or local body having authority to construct and maintain parks or highways, shall have the power to make plans for and promote, and/or to acquire, construct, own, operate and maintain, within or without the limits of the metropolitan district, parks, connecting drives, and/or limited access highways. Said authority may fix and collect fees and charges for use of facilities under its control, and, for its uses, may sell or purchase lands and may acquire and succeed to any or all the rights, obligations, and property pertaining to parks or highways of the state or of any county, city, village, or township comprising territory within the limits of the said metropolitan district: Provided, That no county, city, village, or township shall surrender any such rights, obligations, or property without the approval thereof by a majority vote of the electors of any such county, city, village or township, voting on such proposition.

HISTORY: CL 1948, 119.53.

119.54 Board of commissioners; election and appointment, term.

Sec. 4. The Huron-Clinton metropolitan authority shall be directed and governed by a board of commissioners, 1 to be elected from each county of the metropolitan district by the boards of supervisors of the respective counties, and 2 to be appointed by the governor of Michigan. The elected commissioners shall be electors of their respective counties, and the appointed commissioners shall be electors of the metropolitan district. The appointed commissioners shall serve for 4 year terms or until their successors are appointed, except that for the first board 1 shall be appointed for a 2 year term. The terms of the elected commissioners shall be staggered so that not more than 1 term shall expire in any 1 year, and after the first board no terms shall be less than 6 years. For the first board the terms of the elected commissioners shall be in the order of the populations of the several counties, the commissioner from the most populous county having the longest term.

HISTORY: CL 1948, 119.54.

119.55 Board of commissioners; meetings; organization; employes.

Sec. 5. The commissioners shall hold a meeting within 1 month after their selection, on the call of the chairman of the board of supervisors of the most populous county of the metropolitan district, at such time and place as he may designate. Such meeting shall elect a chairman, who must be a member of the board of commissioners, and a secretary and a treasurer, who need not be members. The board shall also, from time to time, select and employ such other officers and employes and engage such services as shall be deemed necessary to effectuate its purposes.

HISTORY: CL 1948, 119.55.

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119.56 Board of commissioners; records; accounts; treasurer's bond.

Sec. 6. The commissioners shall cause to be kept a written or printed record of every session of the board, which record shall be public. They shall also provide for a system of accounts to conform to any uniform system required by law, and for the auditing at least once yearly of the accounts of the treasurer by a competent certified public accountant or by the auditor general of the state. The board shall require of the treasurer a suitable bond by a responsible bonding company, such bond to be paid for by the board.

HISTORY: CL 1948, 119.56.

119.57 Board of commissioners; levy of tax, procedure.

Sec. 7. The commissioners may levy for the purposes of the authority a tax of not more than 1/4 mill upon each dollar of the assessed value of the property of the district. The board shall ascertain the total taxes or appropriation required for any year and shall thereupon certify to the board of supervisors of each county comprising the district the necessary tax rate to raise such amount, which shall be uniform in the district, and shall take into consideration the ratio that the total assessed valuation of each respective county bears to the total assessed value of all property, real and personal in said entire district according to the last assessment in each of said respective counties. All taxes shall be assessed, levied, collected and returned as county taxes under the general property tax law. All moneys collected by any tax collecting officer from the tax levied under the provisions of this section shall be transmitted to the authority to be disbursed as provided in this act.

The subjects of taxation for the district purposes shall be the same as for state, county, and school purposes under the general law.

HISTORY: CL 1948, 119.57.

119.58 Revenue bonds; issuance; lien.

Sec. 8. For the purposes of acquiring, purchasing, constructing, improving, enlarging, extending, or repairing any revenue-producing recreational facilities, the commissioners may issue self-liquidating bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended. Such bonds shall not impose any liability upon the district but shall be secured only by the property and revenues of the facilities for the purchase and construction of which they were issued. Such bonds shall not be sold for less than par, and shall bear interest at a rate not in excess of 6 per cent. The commissioners shall have power to create a lien on such facilities as security for the payment of the bonds.

HISTORY: CL 1948, 119.58.

NOTE: Act 94, 1933, above referred to, is Compilers' §§ 141.101-141.138.

119.59 Property, purchase, gift or devise; condemnation, procedure.

Sec. 9. For the purposes of the authority as herein defined, the commissioners may purchase, accept by gift or devise or condemn private property. If by condemnation, the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 3763 to 3783, inclusive, of the Compiled Laws of 1929, or such other appropriate provisions therefor as exist or shall be made by law, may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings.

HISTORY: CL 1948, 119.59.

NOTE: Act 149, 1911, above referred to, is Compilers' §§ 213.21-213.41.

119.60 Referendum.

Sec. 10. The foregoing local act shall be submitted to the electors of the counties of Wayne, Washtenaw, Livingston, Oakland, and Macomb at the regular election in November, 1940. The secretary of state is hereby required to certify the said local act to the various clerks of the several counties named in the manner required by law. It

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shall be the duty of the board of election commissioners of each county above named to prepare ballots for the use of electors in all precincts in the counties of Wayne, Washtenaw, Livingston, Oakland, and Macomb, in the manner required by law, which ballots, after setting forth the foregoing local act in full, shall be in substantially the following form:

"Vote on local act incorporating into the Huron-Clinton metropolitan authority the metropolitan district including the counties of Wayne, Washtenaw, Livingston, Oakland, and Macomb.

"Shall the above local act be approved and adopted?

"Yes ( )

"No ( )."

It shall be the duty of the board of election commissioners in each above named county to deliver the ballots so prepared to the inspectors under the general election law. All votes cast upon said local act shall be counted, canvassed, and returned in the same manner as is provided by law for counting, canvassing, and returning votes cast for state officers.

HISTORY: CL 1948, 119.60.

119.61 Referendum; approval by two or more counties; resubmission; governing body.

Sec. 11. If a majority of the electors voting thereon at any election in 2 or more of the above named counties, which are contiguous, shall vote "yes" on the proposal, then all the counties so approving shall constitute a metropolitan district, and the Huron-Clinton metropolitan authority shall be a corporation having all the powers, duties and obligations provided for in this act.

The governing board shall consist of the 2 commissioners appointed by the governor and of the elected commissioners from the counties so approving.

If a majority of the electors in any county should vote "no" on the approval of a Huron-Clinton metropolitan authority, the project may again be submitted to the electors in such county or counties, by their respective boards of supervisors or by petitions signed by at least 10 per cent of the electors therein. Such county or counties shall become part of the metropolitan district whenever at a later election a majority of the electors in such county or counties shall vote "yes".

HISTORY: CL 1948, 119.61.

NOTE: This act has been adopted by the counties of Wayne, Washtenaw, Livingston, Oakland and Macomb.

Sec. 12. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

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CHAPTER 120. PORT DISTRICTS

PORT DISTRICTS

Act 234 of 1925

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Act 234, 1925, p. 342; Eff. Aug. 27.

AN ACT to provide for the creation and establishment of port districts; to prescribe their rights, powers, duties and privileges; to prescribe their powers of regulation in certain cases; to prescribe their powers in respect to acquiring, improving, enlarging, extending, operating, maintaining and financing various projects and the conditions upon which certain of said projects may extend into another state or county. Am. 1955, p. 288, Act 190, Imd. Eff. Jun. 14.

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The People of the State of Michigan enact:

120.1 Port districts; incorporation, exercise of powers.

Sec. 1. Port districts are hereby authorized to be created in the various counties of this state, as in this act provided. Such districts whether heretofore or hereafter created, shall be bodies corporate and have a corporate seal, and may sue and be sued and may contract and be contracted with. Port districts shall have all the powers specifically granted to them and any powers implied or necessary for the exercise of the powers specifically granted. Whenever in this act any power is granted to a port district, it shall be exercised by the port commission unless otherwise provided herein, and whenever in this act any power is granted to a port commission it shall be deemed to be granted to the port district but to be exercised by such port commission.

HISTORY: CL 1929, 2290;—CL 1948, 120.1;—Am. 1955, p. 288, Act 190, Imd. Eff. Jun. 14;—Am. 1958, p. 203, Act 178, Imd. Eff. Apr. 15.

120.2 Referendum petition; filing, examination, certification; resolution of board of supervisors.

Sec. 2. At any general election or at any special election which may be called for that purpose, the board of county supervisors of any county in this state, may or on petition of 10 per cent of the qualified electors of such county based on the total vote cast in the last county election shall, by resolution, submit to the voters of such county the proposition of creating a port district which will be coextensive with the limits of such county as now or hereafter established. Such petition shall be filed with the county clerk, who shall, within 15 days, examine the signatures thereof and certify to the sufficiency or insufficiency thereof, and for such purpose the county clerk shall have access to all registration books in the possession of the officers of any incorporated city or town in such proposed port district.

HISTORY: CL 1929, 2291;—CL 1948, 120.2.

120.3 Insufficient petitions; certification of sufficiency; submission of proposition at election.

Sec. 3. If such petition be found to be insufficient, it shall be returned to the person or persons filing the same, who may, within 10 days thereafter, amend or add names thereto, when the same shall be returned to the county clerk who shall have an additional 15 days to examine the same and attach his certificate thereto. No person having signed such petition shall be allowed to withdraw his name therefrom after the filing of the same with the county clerk. Whenever such petition shall be certified to as sufficient, the county clerk shall forthwith transmit the same, together with his certificate of sufficiency attached thereto, to the board of county supervisors, who shall submit such proposition at the next general election, or the board of county supervisors may at their first meeting after the date of such certificate, by resolution call a special election to be held not less than 30 days nor more than 60 days from the date of such certificate.

HISTORY: CL 1929, 2292;—Am. 1933, p. 79, Act 67, Imd. Eff. May 1;—CL 1948, 120.3.

120.4 Election; notice, form of ballot.

Sec. 4. The notice of the election shall state the boundaries of the proposed port district and the object of such election. In submitting the said question to the voters for their approval or rejection, the proposition shall be expressed on said ballot substantially in the following terms: "Port of ....., Yes" (giving the name of the principal port city within such proposed port district, or if there be more than 1 city within such

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district, such name as may be determined by the board of county supervisors). "Port of ....., No" (giving the name of the principal port city within such proposed port district, or if there be more than 1 city of the same class within such district, such name as may be determined by the board of county supervisors).

HISTORY: CL 1929, 2293;—CL 1948, 120.4.

120.5 Formation; procedure, referendum, effective date of creation.

Sec. 5. Any city or township, or any 2 or more whole contiguous cities or townships, or any combination thereof, by resolution of their respective governing bodies, approved by a majority vote of the electors may form a port district. The resolution shall designate the name of the port district and the cities or townships to be included in the port district. The proposition to create the port district shall be submitted at a general or special election held simultaneously in each city or township having indicated its desire to become a part of the port district, and the date of such election shall be set forth in the resolution. The procedures relative to conducting the election shall be as nearly as may be in the same form as provided herein for the formation of a port district coterminous with a county and when not so provided in conformity with the general election laws or the charter of each city. The creation of the port district shall become effective upon the filing with the secretary of state and county clerk of the county in which the cities or townships are located, of certified copies of each resolution, each election notice, and each official canvass of votes showing that in each city or township the proposition was approved by a majority of the electors voting on the proposition.

HISTORY: CL 1929, 2294;—CL 1948, 120.5;—Am. 1958, p. 203, Act 178, Imd. Eff. Apr. 18.

120.6 Formation of district comprising more than 1 county; limitation; lesser port districts.

Sec. 6. A port district may be comprised of more than 1 whole county if the electors in such counties so elect, and the same procedure shall be followed as is prescribed in this act for the formation of a port district coextensive with a county, except that the board of county supervisors of the respective counties composing the proposed district shall each act in the submission of the proposition and have charge of the elections in their respective counties. No lesser port district shall ever be created within the limits in whole or in part of any port district. No port district shall consist of more than 5 whole contiguous counties.

HISTORY: CL 1929, 2295;—CL 1948, 120.6;—Am. 1958, p. 203, Act 178, Imd. Eff. Apr. 18.

120.7 Formation of district; canvass and declaration of election results; three-fifths vote.

Sec. 7. Within 5 days after such election the board of supervisors shall canvass the returns and if at such election 3/5 of the voters voting upon such proposition shall vote in favor of the formation of such district, the board of county supervisors shall so declare in its canvass of the returns of such election and such voting district shall then be and become a municipal corporation of the state of Michigan and the name of such port district shall be "port of ....." (inserting the name appearing on the ballot).

HISTORY: CL 1929, 2296;—Am. 1933, p. 79, Act 67, Imd. Eff. May 1;—CL 1948, 120.7.

120.8 Formation of district; election and survey expense.

Sec. 8. All the expenses of elections for the formation of such port districts shall be paid by the county or counties holding election, and such expenditure is hereby declared to be for county purposes. Prior to the adoption of a resolution by the board of

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supervisors to submit the question of establishing a port district to the electors, said board may expend not to exceed 5,000 dollars for purposes of making a survey and study of a port district plan.

HISTORY: CL 1929, 2297;—Am. 1933, p. 79, Act 67, Imd. Eff. May 1;—CL 1948, 120.8.

120.9 Port commission, appointment, term, vacancies.

Sec. 9. The control and management of the port district shall be exercised through a port commission consisting of 5 members who shall be appointed by the boards of supervisors. In port districts the boundaries of which are coterminous with a single county at least 2 members shall be residents of the city constituting the seat of the county in which the port district lies. In any port district located in more than 1 county, representation on the port commission from each county covered by the port district shall be, as near as may be, in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. The terms of office of the persons appointed shall be so arranged and designated at the time of their appointment that the term of 2 members shall expire in 3 years, 2 in 2 years, and 1 in 1 year, from July 1 following the appointment. Annually thereafter the boards of supervisors shall appoint the member or members to serve for 3 years as the term of any member or members appointed by them shall expire; any vacancy occurring among the commissioners shall be filled for the unexpired term by the board of supervisors. In any port district, the boundaries of which are coterminous with a city or township or coterminous with 1 or more whole cities or coterminous with 1 or more whole townships, the appointment of members of the port commission shall be made by the governing body of the city or township or cities or townships in which the port district is located, and such members shall hold office and be appointed in the same manner for the same term and subject to the same conditions as members of port districts appointed by the boards of supervisors.

HISTORY: CL 1929, 2298;—Am. 1933, p. 79, Act 67, Imd. Eff. May 1;—CL 1948, 120.9;—Am. 1952, p. 245, Act 184, Eff. Sep. 18;—Am. 1953, p. 28, Act 32, Eff. Oct. 2;—Am. 1958, p. 203, Act 178, Imd. Eff. Apr. 18;—Am. 1966, p. 564, Act 318, Eff. Mar. 10, 1967.

120.10 Port commission; quorum, member, term, eligibility, vacancy, removal, oath.

Sec. 10. In all cases a member shall continue to serve until his successor is appointed and qualified. A majority of the persons holding the office of port commissioner at any time shall constitute a quorum for the transaction of business and the concurrence of the majority of the persons holding such office at the time shall be necessary and shall be sufficient for the passage of any resolution, but no business shall be transacted unless there are in office at least a majority of the full number of commissioners fixed by law. No person shall be eligible to hold the office of port commissioner unless he is a qualified voter, a freeholder within such port district, and is and has been a resident therein for a period of 3 years. No member of any port commission shall have any financial interest, direct or indirect, in the profits of any contract or business transaction with the port district. The foregoing prohibition shall not apply if the commission shall declare on the record, and it is found by unanimous vote of the members present having no such financial interest that the best interests of the district are to be served by the waiving of any such prohibition in a particular case, and then only if competitive purchasing and contracting are used in such case, or if the members of the commission having no such interest, shall unanimously determine that competitive purchasing or contracting is not feasible in such particular case. A vacancy in the office of port commissioner may occur by death, resignation, or removal as hereinafter provided, conviction of a felony, by any statutory disqualification or by any permanent disability preventing the proper discharge of his duties. The boards of supervisors may remove any port commissioner for habitual misconduct, misfeasance, habitual or wilful neglect of duty, or when they are satisfied that such officer is incompetent to properly execute

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the duties of his office. Any member of any port district appointed by the governing body of a city or township or cities or townships as provided in section 9 of this act, may be removed by said governing body for any of the reasons set forth in this section. Each commissioner shall, within 20 days after he shall receive notice of his appointment, qualify by taking and subscribing the constitutional oath of office.

HISTORY: CL 1929, 2299;—CL 1948, 120.10;—Am. 1952, p. 245, Act 184, Eff. Sep. 18;—Am. 1953, p. 29, Act 32, Eff. Oct. 2;—Am. 1958, p. 204, Act 178, Imd. Eff. Apr. 18.

120.11 Port commission; submission of propositions at elections, canvass of votes.

Sec. 11. At any general state election propositions may be submitted to the electors on such subjects as the port commission of a port district may by resolution prescribe subject to the limitations and pursuant to the requirements of this act. At the request of the port commission the governing body of the cities or townships or the county or counties comprising the port district shall call a special election for the submission of propositions and the expenses of such elections shall be paid by the port district. It shall be the duty of the election officials of the cities or townships or the county or counties in a port district to prepare the ballots or voting machines for general or special elections so that questions submitted by the port commission shall be submitted to the electors. The canvass of votes on such questions shall, if the port district be located in a single county, be made by the board of county canvassers, and if it be located in more than 1 county, be made by the board of state canvassers. The general election laws of the state shall govern the conduct of all such elections and the qualifications of electors.

HISTORY: CL 1929, 2300;—Am. 1931, p. 492, Act 299, Eff. Sep. 18;—Am. 1933, p. 79, Act 67, Imd. Eff. May 1;—CL 1948, 120.11;—Am. 1958, p. 204, Act 178, Imd. Eff. Apr. 18.

120.12 Port commission; commissioners, compensation; mileage, expenses.

Sec. 12. Port commissioners shall receive such compensation as shall be determined and fixed by resolution of the governing body of the cities or townships or the board of supervisors of the county or counties in which the port district is located. Port commissioners, while actually engaged in the performance of their duties, outside the area of the port, shall also be paid their actual traveling expenses, both said traveling expenses and mileage to be submitted in writing to the port commission, and to be audited and approved in writing by said port commission before payment.

HISTORY: CL 1929, 2301;—Am. 1933, p. 80, Act 67, Imd. Eff. May 1;—Am. 1939, p. 298, Act 153, Imd. Eff. May 26;—Am. 1941, p. 500, Act 290, Imd. Eff. Jun. 17;—CL 1948, 120.12;—Am. 1955, p. 288, Act 190, Imd. Eff. Jun. 14;—Am. 1958, p. 205, Act 178, Imd. Eff. Apr. 18.

120.13 Port commission; acquisition of property.

Sec. 13. Each port commission shall have power to acquire by purchase or condemnation, or both, all lands, property, property rights, leases or easements necessary for the purposes of the port districts and to exercise domain in the acquirement or damaging of all land, property, property rights, leases or easements. Such right of domain shall be exercised in the same manner and by the same procedure as is and may be provided by law for the taking of private property by the board of county supervisors in this state, except insofar as such may be inconsistent with the provisions of this act, and the duties devolving upon the county treasurer under such law shall be and the same are hereby imposed upon the county treasurer for the county in which such property is located for the purposes of this act.

HISTORY: CL 1929, 2302;—CL 1948, 120.13;—Am. 1966, p. 564, Act 318, Eff. Mar. 10, 1967.

120.13a Port commission; acceptance of gifts, grants or loan; approval.

Sec. 13a. Each port commission may accept gifts, grants, loans or contributions from the United States of America, this state, local municipalities, foundations, any public or private agency or any individual. In port districts coterminous with a county or

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counties, such authority shall not be exercised without first obtaining the approval therefor by a majority vote of the members elect of the board of supervisors of each county wherein the port district is situated.

HISTORY: Add. 1964, p. 94, Act 95, Eff. Aug. 28.

120.14 Port district public improvements; commodity handling; advertising; acquisition.

Sec. 14. Each port district shall have power to lay out, construct, condemn, purchase, acquire, improve, enlarge, extend, maintain, conduct and operate, seawall jetties, piers, wharves, docks, boat landings, warehouses, storehouses, elevators, grain bins, cold storage plants, terminal icing plants, bunkers, oil tanks, ferries, canals, locks, bridges, seaways, tramways, cableways, conveyors, modern appliances for the economical handling, storing and transporting of freight and handling of passenger traffic and other harbor improvements, and rail and water transfer and terminal facilities, (the foregoing being sometimes hereinafter referred to as "public improvements") and in connection with the operation of the port district to perform all customary services including the receiving, delivering, handling, weighing, measuring and reconditioning of all commodities received, and the advertisement of the business of the port district. No such public improvement shall be acquired without first obtaining the approval thereof by a 2/3 vote of the members present and voting of the board or boards of supervisors of the county or counties in which the port district is situated. In addition to the foregoing powers each port commission shall have the following powers:

Construction in navigable waters; harbor, pierhead and bulkhead lines.

(b) Subject to the paramount authority of the federal government and the state or any municipality thereof, to regulate the construction of structures in navigable waters including the establishment of harbor lines, pierhead lines and bulkhead lines.

Private marine facilities.

(c) To require within the area designated as the port area by the comprehensive port plan the repair, rebuilding, or in the alternative the removal, by the owners, of private marine facilities when said private marine facilities are determined by the port commission to constitute a hazard to navigation. The determination of the port commission shall be made in the manner and in accordance with the standards prescribed in the building and safety code of the municipality wherein said private facility is located.

Rules; approval; appeals.

(d) The powers granted in subsections (b) and (c) above shall be exercised by the port commission in accordance with such rules and regulations as shall be adopted by a majority vote of the port commission and approved by a majority vote of the members elect of the board of supervisors. If within 180 days after submission to said board such board fails to disapprove such rules and regulations, it shall be thereupon presumed that such board has approved the same. Appeals from determinations of the port commission shall be had in the same manner as appeals on "contested cases" as provided in Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

Representation of port district.

(e) To represent the port district before all federal, state and local agencies.

Cooperation with other agencies, industry and business.

(f) To cooperate with other public agencies and with industry and business in port improvement matters.

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Planned industrial districts.

(g) To lay out, construct, condemn, purchase, acquire, operate, lease, sell and convey planned industrial districts within the confines of the area designated as the port area by the comprehensive port plan and adjacent to existing port facilities and improvements.

HISTORY: CL 1929, 2303;—Am. 1933, p. 80, Act 67, Imd. Eff. May 1;—CL 1948, 120.14;—Am. 1955, p. 289, Act 190, Imd. Eff. Jun. 14;—Am. 1961, p. 11, Act 10, Imd. Eff. May 3;—Am. 1966, p. 565, Act 318, Eff. Mar. 10, 1967;—Am. 1968, p. 430, Act 250, Imd. Eff. Jul. 1.

120.15 Port district public improvement; issue of evidence of indebtedness.

Sec. 15. Whenever in order to carry out the purposes of this act it becomes necessary to acquire property which cannot be wholly paid for out of any funds which may be available to the commission under the provisions of section 24, the commission is authorized and empowered to issue notes, bonds or other evidences of indebtedness which shall be a lien upon the property to be acquired for such purposes, which lien may be secured by a mortgage, trust deed, or other form of indenture, and is also authorized and empowered to, in the name of the port district, guarantee the payment in whole or in part of any and all such notes, bonds or other evidences of indebtedness according to the terms thereof, or of any mortgage, trust deed or other security issued in connection therewith.

HISTORY: CL 1929, 2304;—Am. 1933, p. 80, Act 67, Imd. Eff. May 1;—CL 1948, 120.15;—Am. 1958, p. 205, Act 178, Imd. Eff. Apr. 18;—Am. 1966, p. 566, Act 318, Eff. Mar. 10, 1967.

120.16 Port district public improvements; bonds for public improvement, revenue, full faith and credit, approvals.

Sec. 16. In lieu of the bonds authorized in section 15, any port district may issue revenue bonds as provided in Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, or as may be provided in any other appropriate statute of this state, for the purpose of financing the whole or any part of the cost of acquiring, improving, enlarging, extending or repairing any of the public improvements mentioned in section 14 and in such case any such public improvements shall be deemed to be a "public improvement" under said act, and the port district shall be governed by the provisions of said act in all matters covered thereby. No such bonds shall be issued without first obtaining the approval therefor by a majority vote of the governing body of each of the cities, townships or counties that are member units of the port districts. Revenue bonds which pledge the faith and credit of the port district shall be controlled by the general revenue limitations of section 24. No bonds, which pledge the faith and credit of the county or counties wherein the port district is situated, shall be issued without first obtaining the approval of the electors.

HISTORY: CL 1929, 2305;—Am. 1933, p. 80, Act 67, Imd. Eff. May 1;—CL 1948, 120.16;—Am. 1955, p. 290, Act 190, Imd. Eff. Jun. 14;—Am. 1958, p. 205, Act 178, Imd. Eff. Apr. 18;—Am. 1966, p. 566, Act 318, Eff. Mar. 10, 1967.

120.17 Port district public improvements; lands, leases and easements.

Sec. 17. Each port commission shall have power to own and control lands, leases, and all easements in land necessary for the purposes of the port district.

HISTORY: CL 1929, 2306;—CL 1948, 120.17.

120.18 Port district public improvements; streams.

Sec. 18. Each port commission shall have power to improve navigable and non-navigable streams of the United States and the state of Michigan within the port district.

HISTORY: CL 1929, 2307;—CL 1948, 120.18.

120.19 Port district public improvements; waterways, creation.

Sec. 19. Each port commission shall have power to create and improve for harbor purposes any waterways within the port district; to regulate and control all such

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waters and all natural or artificial waterways within the limits of such port district so far and to the full extent that this state can grant the same and remove obstructions therefrom.

HISTORY: CL 1929, 2308;—CL 1948, 120.19.

120.20 Public improvements; income producing; payment in lieu of taxes.

Sec. 20. Any port district owning and operating an income-producing public improvement shall pay from such income annual sums in lieu of taxes to the county, city, school district or other taxing unit of the state, with respect to any real or personal property held by it and which constitutes a part of such improvement. The amount so paid to each taxing unit in each year shall be equivalent to the taxes which would have been paid if such property were not exempt from taxation. The port district shall have the same right of appeal as is provided by law to any other taxpayer insofar as any levy or assessment of such taxes is concerned.

HISTORY: CL 1929, 2309;—CL 1948, 120.20;—Am. 1955, p. 290, Act 190, Imd. Eff. Jun. 14;—Am. 1966, p. 566, Act 318, Eff. Mar. 10, 1967.

120.21 Commodities; tolls, fees, rents; approval.

Sec. 21. Each port district shall have power to fix and collect tolls, fees, rents and other charges for the use of the services, property, facilities and commodities furnished by it, subject to review and approval of a majority of the members present and voting of the board or boards of supervisors of the county or counties in which the port district is situated. The tolls, fees, rents and other charges shall at no time be less than necessary to satisfy the requirements of any statute, ordinance or resolution under which revenue bonds then outstanding shall have been issued by the port district.

HISTORY: CL 1929, 2310;—CL 1948, 120.21;—Am. 1955, p. 290, Act 190, Imd. Eff. Jun. 14;—Am. 1966, p. 566, Act 318, Eff. Mar. 10, 1967.

120.22 Lease of property; maximum term, bond.

Sec. 22. Each port commission shall have power to lease under such covenants and conditions as the commission may prescribe, all storage facilities, wharves, piers, bulkheads, docks, sheds, warehouses, industrial locations and other property owned and controlled by said port district upon such terms as the port commission may deem proper: Provided, That no lease shall be executed for longer than a period of 50 years and every such lease shall be secured by a bond with surety satisfactory to or approved by the port commission.

HISTORY: CL 1929, 2311;—Am. 1933, p. 81, Act 67, Imd. Eff. May 1;—CL 1948, 120.22;—Am. 1955, p. 290, Act 190, Imd. Eff. Jun. 14.

120.23 Sale of property; approval.

Sec. 23. Each port commission shall have power to sell and convey any property in anywise acquired and owned by the port district whenever the port commission of such district shall have by resolution declared such property to be no longer needed for the purpose of the port district: Provided, That the power herein granted to the commission shall not be exercised without first obtaining the approval therefor by a 2/3 vote of the members elect of the board of supervisors of the county or counties in which such property is located.

HISTORY: CL 1929, 2312;—Am. 1933, p. 81, Act 67, Imd. Eff. May 1;—CL 1948, 120.23;—Am. 1955, p. 291, Act 190, Imd. Eff. Jun. 14.

120.24 Port commission; taxes, special assessments; allocation of millage.

Sec. 24. Each port commission shall have power to raise revenue by a tax to be levied on all taxable property within such port district, not exceeding 2 mills in any one year on each dollar of the assessed valuation of the taxable property in such port district. The tax shall be for such number of years as approved by the electors of the cities or townships or of the county or counties and shall be levied and collected in the same manner now provided for the levy of state and county taxes under the general tax law, and shall be paid to the county treasurer having custody of the port district

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fund, to the credit of such fund, and such tax shall not exceed $1,500,000.00 in any one year. If the port commission is authorized under any present or future law of the state to establish special assessment zones and to raise revenue through the medium of special assessments for benefits within such zones, taxes so assessed shall be in excess of such 2 mill limitation. This act shall not authorize a county allocation board to allocate millage within the 15 mill limitation for capital construction purposes, except to meet any deficiency in the payments of principal or interest upon bonds regularly issued with the approval of the electors. Funds may be appropriated from regular millage for operating purposes only in an amount to be established by the board of supervisors, and the board of supervisors may also appropriate for any purposes moneys obtained as revenues from the operation of the port.

HISTORY: CL 1929, 2313;—Am. 1931, p. 492, Act 299, Eff. Sep. 18;—Am. 1933, p. 81, Act 67, Imd. Eff. May 1;—CL 1948, 120.24;—Am. 1958, p. 205, Act 178, Imd. Eff. Apr. 18;—Am. 1964, p. 29, Act 24, Imd. Eff. Apr. 29;—Am. 1966, p. 566, Act 318, Eff. Mar. 10, 1967.

120.24a, 120.24b Repealed. 1958, p. 208, Act 178, Imd. Eff. Apr. 18.

Sections provided for port districts' estimates and reports of amounts necessary to be raised by general tax.

120.25 Port commission; bond issues, limit, approval by governing bodies or electors.

Sec. 25. Each port commission shall have power to borrow money and issue bonds to an amount not greater in any one year than 1/5 of 1% of the total assessed valuation of such port district, nor to a total amount including all outstanding bonded indebtedness of such district exceeding 2% of the assessed valuation of such district and at a rate of interest not to exceed 6% after a resolution to that effect is passed by the majority of the board of commissioners and approved by a 3/5 majority of the members elect of the governing body of the cities or townships or of the board of supervisors of the county or counties of the port district, and the question shall be submitted to a vote of the electors of the district at a general election and 51% of the electors voting on such resolution shall vote in favor thereof. The election officials of the cities or townships or of the county or counties in the port district shall prepare the ballots or voting machines. The canvass of votes on such question shall, if the port district be located in a single county, be made by the board of county canvassers, and if it be located in more than 1 county, be made by the board of state canvassers. The general election laws of the state shall govern the conduct of the vote and qualifications of electors. In any port district having an assessed valuation of $50,000,000.00 or less, the commission shall have power to borrow money and issue bonds to an amount not greater in any one year than 1 ½% of the total assessed valuation of such district. General bonds for any such district may be issued for any period not exceeding 30 years. No bond or evidence of indebtedness shall be negotiated at less than par and the accrued interest. The question of a bond issue may be submitted to the electors at the same time that the question of the creation of a port district is submitted to them, but a vote authorizing a bond issue shall be invalid unless the creation of the district is also authorized by the electors voting thereon. In such case the expense of the elections shall be paid by the cities or townships or the county or counties and the question of the bond issue shall be submitted in substantially the following form: "Shall the port commission, if authority be given for its creation at this election, have the power to issue ..... in bonds for port improvements?"

HISTORY: CL 1929, 2314;—Am. 1931, p. 492, Act 299, Eff. Sep. 18;—Am. 1933, p. 82, Act 67, Imd. Eff. May 1;—Am. 1937, p. 17, Act 12, Imd. Eff. Apr. 24;—CL 1948, 120.25;—Am. 1958, p. 206, Act 178, Imd. Eff. Apr. 18;—Am. 1964, p. 94, Act 96, Eff. Aug. 28.

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120.26 Port commission; assistants and employes.

Sec. 26. Each port commission shall have power to employ such assistants, clerks, inspectors, engineers, legal counsel or other employes for carrying out the purposes of the port commission, and fix the salaries, compensation and bonds of such employes as it may by resolution provide, subject, however, to the provisions of section 34 hereof.

HISTORY: Am. 1931, p. 493, Act 299, Eff. Sept. 18;—Am. 1933, p. 82, Act 67, Imd. Eff. May 1;—CL 1948, 120.26.

120.27 Port commission; expenditures, authority, bids.

Sec. 27. No port district coterminous with a county, or comprising an area greater than a county, shall be empowered to make any expenditure or any commitment for the expenditure of funds, arising from any source whatsoever, except to the extent that the same shall have been first duly authorized by the port district budget committee if there be one and specific appropriations made by the board or boards of supervisors of such county or counties: Provided, That nothing in this act contained shall be construed as preventing a port district from making any expenditure or commitment, or performing any act, required by any statute or by the terms of any ordinance or resolution pertaining to the issuance of revenue bonds, if such issuance was approved by the board or boards of supervisors as required in section 16 of this act. In all cases involving the expenditure of $1,000.00, or more, each port commission shall enter into contract with the lowest competent and reliable bidder for all work to be done and for the purchase of all supplies and materials required by the port district.

HISTORY: CL 1929, 2316;—CL 1948, 120.27;—Am. 1955, p. 291, Act 190, Imd. Eff. Jun. 14;—Am. 1958, p. 206, Act 178, Imd. Eff. Apr. 18.

120.28 Port commission; lease of harbor area, rents.

Sec. 28. The port commission of each port district shall have full power and authority to lease the harbor area belonging to the state of Michigan situated within such port district, to the highest bidder upon such terms and conditions as shall conform to the provisions of this act and to the comprehensive scheme of harbor improvement as herein later provided. Every such lease shall provide that the rental thereunder shall be payable to the county treasurer wherein such port district is situated for the use of such port district and to go into a special fund hereinafter provided for: Provided, That where the port district covers 2 or more counties such rents shall be paid to the county treasurer designated by the port commission.

HISTORY: CL 1929, 2317;—CL 1948, 120.28;—Am. 1958, p. 206, Act 178, Imd. Eff. Apr. 18.

120.29 Port commission; officers, election, power; seal; proceedings; funds; office; maps, charts, plans and documents.

Sec. 29. The port commission shall organize by electing from among its members a chairman, vice chairman and secretary. The officers so selected shall possess and exercise such powers as may, from time to time, be granted to them by the commission. The port commission shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings of the board of commissioners shall be by resolution recorded in a book or books kept for such purpose which shall be public records, all funds of the port district shall be paid to the county treasurer, of the county in which said port district is situated, or if it consists of 2 or more whole counties, then to the county treasurer designated by the commission, and all disbursements shall be made by such officer on warrants drawn by the county auditor, or in port districts having no county auditor on warrants drawn by the county clerk, upon order of or vouchers approved by the port commission. The port commission shall have an office in which they shall keep maps, charts, plans, and documents relating to

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the land and waters and all matters in their charge, and the commission shall at all times have access to any other maps, charts, plans and documents relating to said port district in the office or custody of any public board, commission or officer.

HISTORY: CL 1929, 2318;—Am. 1937, p. 504, Act 277, Imd. Eff. Jul. 22;—CL 1948, 120.29;—Am. 1958, p. 207, Act 178, Imd. Eff. Apr. 18.

120.30 Comprehensive port plan of harbor improvements; notice, hearing, approval by municipalities, restrictions.

Sec. 30. It shall be the duty of the port commission of any port district, before creating any improvements hereunder, to adopt a comprehensive port plan of harbor improvement in such port district after a public hearing thereon, of which at least 10 days' notice shall be published in a daily newspaper of general circulation in such port district. Such comprehensive port plan shall include an indication of the relationship of the area designated as the port area by the comprehensive port plan to land transportation and other land uses related to port activities. The port commission shall submit to the legislative body of any city, village or township, for its approval, that portion of the comprehensive plan which includes territory lying within the boundaries of the said city, village or township. Such submission shall be made by delivering the said portion of the comprehensive port plan to the clerk of the city, village or township involved, and if approved by the legislative body thereof, shall take effect from the date of such approval. If within 180 days after submission the legislative body of such city, village or township fails to disapprove such portion of the plan as shall have been submitted, it shall be thereupon presumed that such city, village or township has approved the same and such portion of the plan shall become effective without further notice. If the legislative body of the city, village or township to which a portion of the plan as amended or altered has been submitted disapproves the same, the commission may proceed to make such public improvements on lands leased or owned by the port commission as are prescribed in said plan to be made in the other part or parts of the port district. The port commission shall have the power to amend or alter the comprehensive port plan: Provided, however, That wherever such amendments or alterations of the comprehensive port plan include any area or territory lying within a city, village or township, that portion of the amendment or alteration shall be submitted to the legislative body of said city, village or township for its approval. Such submission shall be made by delivering the said portion of the comprehensive port plan, as amended or altered, to the clerk of the city, village or township involved, and if approved by the legislative body thereof, shall take effect from the date of such approval. If within 180 days after submission the legislative body of such city, village or township fails to disapprove that portion of the amendment or alteration of the comprehensive plan, it shall be thereupon presumed that such city, village or township has approved the same, and such portion of the comprehensive plan, as amended or altered, shall become effective without further notice. If the legislative body of the city, village or township to which a portion of the plan as amended or altered has been submitted disapproves the same, the commission may proceed to make such public improvements on lands leased or owned by the port commission as are prescribed in such amendment or alteration of the port plan to be made in the other part or parts of the port district. Wherever the legislative body of any city, village or township has approved that portion of the comprehensive port plan which includes the area or territory of such city, village or township, it shall be the duty of the port commission to recommend the zoning district classifications for the area to said legislative body: Provided, however, That nothing herein contained shall be construed as conferring, directly or indirectly, upon said port district, or port district commission or authority, power or powers to acquire, own, maintain or operate the Detroit, Michigan—Windsor, Ontario, Canada tunnel or international bridge: And provided further, That where any language in said

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act is in conflict with this prohibition, then and in that event any such language shall be deemed to be void and of no force or effect.

HISTORY: CL 1929, 2319;—Am. 1931, p. 493, Act 299, Eff. Sep. 18;—CL 1948, 120.30;—Am. 1955, p. 291, Act 190, Imd. Eff. Jun. 14.

120.31 Property rights in improvements; cooperation between port district and certain other public bodies.

Sec. 31. No improvements shall be acquired or constructed by the port district unless such improvements shall, when completed, be the property of such port district, the county in which such port district is located, any commercial waterway district created within its boundaries, any city within such port district, the state of Michigan, or the United States of America, and the funds of such port district may be expended in the acquirement or construction of any harbor improvement embraced in such general plan adopted as in this act provided, in conjunction with the county in which such port district is located, any commercial waterway district created within its boundaries, any city in such port district, the state of Michigan, or the United States of America, or any or all of them.

HISTORY: CL 1929, 2320;—Am. 1931, p. 493, Act 299, Eff. Sept. 18;—CL 1948, 120.31.

120.32 Power to borrow in anticipation of tax.

Sec. 32. Any port commission is hereby authorized, prior to the receipt of taxes raised by levy, to borrow money or issue the warrants of the district in anticipation of the revenues to be derived by such district from the levy of taxes for the purpose of such district during any year, and such warrants shall be redeemed from the first money available from such taxes when collected.

HISTORY: CL 1929, 2321;—CL 1948, 120.32.

120.33 Fund created; special funds; disbursement.

Sec. 33. The county treasurer of the county in which the port district is located, or in the event that the district covers 2 or more whole counties, then the county treasurer designated by the port commission shall create a fund to be known as the "Port of ..... Fund," into which shall be paid all money received by him from the collection of taxes in behalf of such port district, and no money shall be disbursed therefrom except upon warrants of the county auditor, or upon order of or vouchers approved by the port commission. The county treasurer shall also maintain such other special funds as may be prescribed by the port commission, into which shall be placed such moneys as the port commission may by its resolution direct, and from which disbursements shall be made upon proper warrants of the county auditor or county clerk issued against the same by authority of the port commission.

HISTORY: CL 1929, 2322;—CL 1948, 120.33;—Am. 1958, p. 207, Act 178, Imd. Eff. Apr. 18.

120.34 Annual reports; budgets; budget committee.

Sec. 34. The commission shall on or before September 1 of each year submit a written report to the governor, the legislature, the public service commission, and the governing body of the cities or townships or the board of supervisors of the county or counties of the port district, which report shall contain a statement of the doings of the port commission during the preceding calendar year and such recommendations as to legislation as in the opinion of the commission may be necessary or expedient to enable the commission better to administer the affairs of the port district and to carry out the purposes for which the port district was enacted. In port districts coterminous with a county the commission shall also file with the board of supervisors of the county on or before September 1 of each year a budget setting out in detail its program for the ensuing year, together with the several amounts estimated by the commission to be necessary for the purposes indicated therein. The board of supervisors may decrease the budget proposed by the commission and also eliminate specific items. In port districts coterminous with 2 or more counties, the boards of supervisors of the counties

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included in the port district shall appoint a port district budget committee composed of not more than 15 members of the boards of supervisors. Representation on the port district budget committee from each county in the port district shall be, as near as may be, in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. The port district budget committee shall review the budget request of the commission and recommend to the boards of supervisors of the counties in the port district the budget for the port district. The boards of supervisors may decrease the budget recommended by the port district budget committee and also eliminate specific items. The budget shall be approved by boards of supervisors with 66-2/3% of the state equalized value of the total port district and the budget as approved shall be reported to the port district budget committee and port commissions, and shall become final and binding on the boards of supervisors of all the counties in the port district, and the boards of supervisors shall appropriate their proportionate share of the total budget for the port district. The budget shall be apportioned between the counties in proportion to the state equalized value of the county in relation to the total state equalized value of the port district. No money shall be expended by the commission for any purpose not included in the budget as approved by the port district budget committee and the boards of supervisors of the county or counties in the district. In port districts coterminous with a county, all disbursements shall be made by the county treasurer on warrants drawn by the board of county auditors, or in port districts having no board of county auditors on warrants drawn by the county clerk, upon order of vouchers approved by the port commission. In port districts of 2 or more counties, disbursements shall be made by the county treasurer designated by the commission subject to the same conditions imposed on the county treasurer of a port district coterminous with 1 county. Port districts coterminous with a city or township shall follow the same procedure, as near as may be, substituting the local governing body and local officers where applicable for the board of supervisors and county officials, and be subject to the same conditions as set forth for county port districts, and port districts coterminous with 2 or more cities or townships shall in the same manner follow the procedure as near as may be and be subject to the same conditions as set forth for port districts coterminous with 2 or more counties.

HISTORY: CL 1929, 2323;—Am. 1933, p. 83, Act 67, Imd. Eff. May 1;—CL 1948, 120.34;—Am. 1958, p. 207, Act 178, Imd. Eff. Apr. 18;—Am. 1966, p. 567, Act 318, Eff. Mar. 10, 1967.

120.34a Port districts coterminous with cities and townships; powers of local governing bodies.

Sec. 34a. In construing this act, port districts coterminous with a city or township shall follow the same procedure, as near as may be, substituting the local governing body and local officers where applicable for the board of supervisors and county officials, shall enjoy the same powers and be subject to the same conditions as set forth for county port districts, and port districts coterminous with 2 or more cities or townships shall in the same manner follow the same procedure, as near as may be, shall enjoy the same powers and be subject to the same conditions as set forth for port districts coterminous with 2 or more counties.

HISTORY: Add. 1960, p. 32, Act 40, Eff. Aug. 17.

120.35 Construction of act.

Sec. 35. This act shall not be construed to repeal, amend, or modify any law heretofore enacted, providing a method of harbor improvement, regulation or control in this state, but shall be held to be an additional and concurrent method providing for such

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purpose and except by agreement between the port commission and the parties at interest, shall not be construed to include within its terms any property now or hereafter devoted to public use, owned, operated or controlled by any person, municipality or private corporation.

HISTORY: CL 1929, 2324;—CL 1948, 120.35.

120.36 Repealed. 1966, p. 568, Act 318, Eff. Mar. 10, 1967.

Section provided that nothing in port district act deemed to constitute a grant of state land.

Original section 36 of Act 234 of 1945, p. 342, was a severing clause section and was repealed by Act 267 of 1945.

Act 251, 1966, p. 340; Imd. Eff. Jul. 11.

AN ACT relating to declare certain policies of the state of Michigan; to designate the department of commerce as the agency of this state to cooperate and negotiate with port districts and others; to provide for the making of grants to port districts and the administration thereof; to authorize studies to assist in stimulating port traffic; to authorize the department to represent the state before other governmental units; to direct the establishment of port promotional programs; and to provide other powers, rights and duties of the department.

The People of the State of Michigan enact:

120.51 Department of commerce designated state agency; cooperation and negotiation with port districts and harbor facilities.

Sec. 1. The department of commerce is designated the state agency to cooperate and negotiate with port districts, port authorities, other governments, governmental units and agencies thereof in matters concerning the planning, acquisition, development, operation, maintenance and administration of port and commercial harbor facilities in this state.

HISTORY: New 1966, p. 340, Act 251, Imd. Eff. Jul. 11.

120.52 Requests for matching grants by port districts; disbursement of funds.

Sec. 2. Any port district created in accordance with the laws of this state, after receiving the approval of a majority of the members of the board of supervisors of the county in which the port district is situated, may request matching grants from the state to assist the port district in the planning, acquisition, development or expansion of port facilities, including lands, buildings, warehouses and similar facilities, acquired or to be acquired by the port district. The requests shall be filed with the department of commerce and the department shall include in its annual budget request, a listing of the funds requested by the various port districts and the recommendations of the department with respect thereto. Funds appropriated by the legislature to the various port districts shall be disbursed through the department which shall enter into appropriate agreements with the port districts prescribing the terms and conditions of the grants in accordance with the applicable laws of this state. The department shall on or before September 1 of each year submit a written report to the governor and the legislature.

HISTORY: New 1966, p. 340, Act 251, Imd. Eff. Jul. 11.

120.53 Cooperation and agreements with United States; conduct of studies, research programs; purpose, approval.

Sec. 3. The department may cooperate and enter into agreements with the United States and any agency or department thereof in the conduct of studies, research programs and related investigations designed to make available to port districts of this state, information to assist in stimulating, increasing or developing traffic within the

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port districts; but in no case shall the department obligate the state without legislative approval. To the greatest extent possible, any such studies shall be conducted in conjunction with port districts of this state.

HISTORY: New 1966, p. 340, Act 251, Imd. Eff. Jul. 11.

120.54 Investigation of transportation rates; representation of state and port districts.

Sec. 4. The department shall conduct investigations of transportation rates and shall represent the state and the various port districts before any agency of this state, the United States, or any agency or department thereof, on all matters relative to the establishment, continuance, modification or discontinuance of transportation rates insofar as the rates affect port districts or shipping operations on the navigable waters of this state.

HISTORY: New 1966, p. 341, Act 251, Imd. Eff. Jul. 11.

120.55 Budget requests; purposes.

Sec. 5. The department shall include in its annual budget request such funds as shall be necessary to permit the conduct of the programs and activities authorized by the provisions of this act, including administrative costs thereof.

HISTORY: New 1966, p. 341, Act 251, Imd. Eff. Jul. 11.

120.56 Construction of act.

Sec. 6. In construing this act, port districts coterminous with a city or township shall follow the same procedure as is prescribed for counties, substituting the local governing body and officers where applicable for the board of supervisors and county officials. Whenever in this act any power is granted to a port district, it shall be exercised by the port commission unless otherwise provided herein. Whenever in this act any power is granted to a port commission it shall be deemed to be granted to the port district but to be exercised by such port commission.

HISTORY: New 1966, p. 341, Act 251, Imd. Eff. Jul. 11.

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CHAPTER 121. CHARTER WATER AUTHORITY

CHARTER WATER AUTHORITY ACT

Act 4 of 1957

121.1 Charter water authority; definition; intent of act, limitation on authority.
121.2 Incorporating municipalities; act as charter.
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Act 4, 1957, p. 5; Imd. Eff. Mar. 20.

AN ACT to provide for the incorporation of municipal authorities to acquire, own and operate water supply and transmission systems; to provide a municipal charter therefor; and to prescribe the powers and functions thereof.

The People of the State of Michigan enact:

121.1 Charter water authority; definition; intent of act, limitation on authority.

Sec. 1. As used in this act, "water supply and transmission system" means plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply and the treatment thereof, and necessary transmission mains and appurtenances for the distribution of the water to the cities, villages and townships within the territorial limits of the authority. The cities, villages and townships shall continue to own, operate and maintain their own water distribution systems. It is the intent of this act to provide an equitable and reasonable method and means of financing and acquiring a central water supply and transmission system to supply potable water in sufficient quantities to local governmental units for distribution and sale to their own customers and users. The authority shall be limited to acquiring, owning and operating the central water supply and transmission system in the manner authorized by this act, either within or without the corporate limits of the authority.

HISTORY: New 1957, p. 5, Act 4, Imd. Eff. Mar. 20.

121.2 Incorporating municipalities; act as charter.

Sec. 2. Any 2 or more cities, villages or townships, or any combination thereof, having a combined current state equalized valuation of not less than $200,000,000.00, by vote of their respective electors, may incorporate an authority comprising the territory

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within their respective limits for the purpose of acquiring, constructing, purchasing, operating and maintaining a water supply and transmission system. The authority shall be a public municipal corporation with the rights, powers and duties set forth in this act, which act shall constitute the charter of such municipal corporation.

HISTORY: New 1957, p. 5, Act 4, Imd. Eff. Mar. 20.

121.3 Referendum on joinder; form of ballot.

Sec. 3. Each city, village or township desiring to become a part of the authority shall indicate, by resolution of its legislative body, its desire to become a part thereof, and shall submit the proposition of becoming a part of the authority to a vote of its qualified electors at a general or special election to be called for such purpose. The procedures relative to conducting the election shall be as provided in the general election law. The proposition to be submitted in each city, village or township shall be substantially as follows:

"Shall the (city, village or township, as the case may be) of ....., become a part of an authority incorporated as a municipal corporation under the provisions of Act No. ..... of the Public Acts of 1957, entitled 'An act to provide for the incorporation of municipal authorities to acquire, own and operate water supply and transmission systems; to provide a municipal charter therefor; and to prescribe the powers and functions thereof,' said municipal authority to have the power pursuant to its charter to issue general obligation bonds and to levy taxes for the payment thereof, the total principal amount of which bonds at no time shall exceed 5% of the total state equalized valuation of the governmental units comprising the authority?

Yes ( )

No ( )."

HISTORY: New 1957, p. 5, Act 4, Imd. Eff. Mar. 20.

121.4 Referendum; simultaneous submission.

Sec. 4. Any city, village or township shall become a member of the authority when a majority of the electors voting on the proposition vote in favor thereof. The proposition to incorporate the authority shall be submitted at a general or special election held simultaneously in each city, village or township having indicated its desire to become a part of the authority.

HISTORY: New 1957, p. 5, Act 4, Imd. Eff. Mar. 20.

121.5 Referendum; certificates, incorporation, name.

Sec. 5. If on the vote being canvassed in each city, village or township, the result is determined to be in favor of the incorporation, the city clerk in the case of cities, the village clerk in the case of villages, and the township clerk in the case of townships, each shall file with the secretary of state and with the county clerk of the county in which the city, village or township is located, a certified copy of the resolution of their legislative body indicating its desire to become a part of the authority, a certified copy of the notice of election at which the question was submitted to the electors, and a certified copy of the canvassing resolution showing that the incorporation proposition was approved by a majority of the electors voting thereon, which resolution shall also give the number of votes cast on the proposition and the number cast for and against the same. From the date of the filing, the authority shall be deemed to be duly and legally incorporated under the provisions of this act if the total current state equalized valuation of such units of government so filing shall be $200,000,000.00 or more. If the electors of 1 or more cities, villages or townships vote against becoming a part of the authority, such fact shall not defeat the incorporation if the incorporation was approved by the electors of any 2 or more remaining cities, villages or townships having a current state equalized valuation of $200,000,000.00 or more; but the remaining cities, villages or townships shall constitute the boundaries of the authority, and a part

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thereof, if the legislative bodies of the remaining units of government, by resolution, approve the incorporation. Copies of the resolutions shall be filed in the office of the secretary of state and the county clerk of the county in which the units of government are situated. The incorporated authority shall then be known and designated as "The charter water authority of the (name cities, villages and townships becoming a part thereof), county (or counties) of ....., Michigan" unless the governing body of the authority adopts a distinctive name for the authority, and files it in the office of the secretary of state.

HISTORY: New 1957, p. 6, Act 4, Imd. Eff. Mar. 20.

121.6 Board of commissioners; voting strength, term.

Sec. 6. The incorporated authority shall be directed and governed by a board of commissioners appointed as herein provided. The legislative body of each city, village or township constituting a part of the authority, within 30 days after the incorporation of the authority, shall elect a commissioner as its representative on the board of commissioners. The commissioner from each city, village or township shall have 1 vote. In determining the voting strength of a commissioner from a township in which is located a village or villages which are also constituent members of the authority, there shall be subtracted from the state equalized valuation of such township that proportion of such state equalized valuation of that township which the total assessed valuation of such member village or villages bears to the total assessed valuation of such township as a whole, as determined by the township board of review. In determining the voting strength of a commissioner from a village, such village shall be deemed to have a state equalized valuation equal to that proportion of the state equalized valuation of the whole township in which such village is located as the assessed valuation of such village, as determined by the township board of review, bears to the assessed valuation of the whole township in which such village is located, as last determined by the township board of review. In addition to such 1 vote, the commissioner from each city, village or township having a state equalized valuation in excess of $40,000,000.00 shall have 1 cumulative and additional vote for each $40,000,000.00 or any part thereof of state equalized valuation for the city, village or township he represents in excess of $40,000,000.00. Each commissioner's voting strength shall be determined initially as of the date of incorporation of the authority, and shall be redetermined every 5 years thereafter. The state equalized valuation for each city, village or township shall be determined initially and redetermined by the latest official figures applicable to that city, village or township. The commissioners shall serve for 4 years or until their successors are appointed.

HISTORY: New 1957, p. 6, Act 4, Imd. Eff. Mar. 20.

121.7 Board of commissioners; first meeting, officers, employees, bylaws, office.

Sec. 7. The board of commissioners shall hold their first meeting within 1 month after their selection, on the call of the mayor of the most populous city of the authority, or if no city is a part of the authority, the mayor or president of the most populous village, or if no city or village is a part of the authority, the supervisor of the most populous township, as determined by the last federal decennial census. At the first meeting the board of commissioners shall elect a chairman and a vice-chairman, who shall be members of the board of commissioners, and a secretary and a treasurer, who need not be members. The board shall select and employ such other officers and employees and engage such engineering, legal and other professional services as it deems neces-

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sary to effectuate its purposes and fix the compensation therefor. The board may adopt such rules of procedure and bylaws as it deems advisable and shall designate an office or location as its principal place of business.

HISTORY: New 1957, p. 7, Act 4, Imd. Eff. Mar. 20.

121.8 Board of commissioners; record of proceedings; accounts, audit, bond.

Sec. 8. The board of commissioners shall keep a written record of every session of the board, which record shall be public. It shall also provide for a system of accounts to conform to any uniform system required by law, and for the auditing at least once yearly of the accounts of the treasurer by a competent certified public accountant, and the balance sheet showing the financial condition of the authority as of the date of the audit shall be published in 1 or more newspapers which have a general circulation in the governmental units comprising the authority within 30 days after such audit is received by the board of commissioners. The board shall require of the treasurer a suitable bond by a responsible bonding company, to be paid for by the board.

HISTORY: New 1957, p. 7, Act 4, Imd. Eff. Mar. 20.

121.9 Rates and charges; revision; revenues, priority.

Sec. 9. The board of commissioners, by resolution adopted by a 2/3 majority of the total authorized votes, prior to the acquisition or construction of a water supply and transmission system, and prior to the issuance of any bonds for such purposes, shall establish an initial schedule of rates and charges for the use of water to be furnished by the system to the governmental units within the corporate limits of the authority. The rates and charges may be fixed and revised from time to time by the board of commissioners within the limitations and conditions provided in the terms of any contract for the sale of water entered into between the authority and the governmental units within the corporate limits of the authority. Moneys derived from the collection of such rates and charges shall be applied and used by the authority in manner following, and in the following priority:

(1) To provide for the payment during each fiscal year of all current expenses of administration, operation and maintenance as may be necessary to preserve the system in good repair and working order.

(2) In the discretion of the board of commissioners, there may be set aside during each fiscal year moneys to provide a reserve fund for replacements or major repairs and improvements not anticipated or considered to be a part of current expenses of administration, operation or maintenance.

(3) Any balance remaining at the end of any fiscal year shall be deposited into the debt retirement fund to be established by the board of commissioners pursuant to the provisions of section 17 of this act and used only for the purpose of paying any bonded indebtedness incurred in accordance with the authorization contained in this act.

HISTORY: New 1957, p. 7, Act 4, Imd. Eff. Mar. 20.

121.10 Rates and charges; duration of contract with governmental unit.

Sec. 10. After the establishment of initial rates and charges as required by section 9 of this act, the authority and the governmental units within its corporate limits may contract for the sale and purchase of water from any such system for a period of not exceeding 50 years.

HISTORY: New 1957, p. 7, Act 4, Imd. Eff. Mar. 20.

121.11 Budget; submission, hearing, adoption.

Sec. 11. On or before February 1 of each year, the board of commissioners shall prepare and submit to the governing bodies of each governmental unit comprising the authority, a proposed budget covering its anticipated expenses of administration, opera-

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tion and maintenance, plus any reserve therefor to be established, for the next succeeding fiscal year. The budget shall include a statement showing the amounts necessary to retire all principal and interest on any bonds of the authority maturing during the next ensuing fiscal year, the anticipated revenues to be derived from rates and charges during the fiscal year, and the proposed tax levy to provide funds for meeting its requirements for operation, administration, maintenance or debt retirement if necessary. Any governmental unit within the corporate limits of the authority shall be entitled to a hearing before the budget is finally adopted, upon request being made to the authority within 30 days after receipt of a copy of the proposed budget. The annual budget shall be finally adopted by the authority on or before June 1 of each year.

HISTORY: New 1957, p. 8, Act 4, Imd. Eff. Mar. 20.

121.12 Fiscal year.

Sec. 12. The fiscal year of the authority shall commence on July 1 of each year and end on June 30 of each year, unless the board of commissioners, by resolution, establishes a different fiscal year.

HISTORY: New 1957, p. 8, Act 4, Imd. Eff. Mar. 20.

121.13 Bonds; maximum; authorizing resolution, contents.

Sec. 13. For the purpose of constructing, acquiring, improving, enlarging or extending a water supply and transmission system, including the payment of engineering, legal and financing expenses in connection therewith, and after the establishment of the initial rates and the execution of contracts for the sale and purchase of water with each governmental unit within the corporate limits of the authority as provided in sections 9 and 10 of this act, the authority may borrow money and issue its negotiable general obligation bonds for such purpose. The total principal amount of the bonds, at no time, shall exceed 5% of the total state equalized valuation of the combination of governmental units comprising the authority. The bonds shall be issued only after the adoption of a resolution by a 2/3 majority of the total authorized vote. The resolution shall briefly describe the water supply and transmission system to be constructed, acquired, improved or extended, the estimated cost thereof, shall state that contracts for the sale and purchase of water have been entered into with all the governmental units comprising the authority, that initial rates have been established for the sale of water by the authority to the governmental units, the date, maturities and maximum interest rate at which the bonds shall be sold, prior redemption features of the bonds, if any, and an irrevocable pledge on the part of the authority to levy annually the taxes necessary to provide sufficient funds for the payment of principal and interest on the bonds as they mature in the manner authorized by this act. The resolution shall specify such other details and matters as may be deemed necessary or advisable to provide for the prompt and orderly retirement of the bonds and the interest thereon at maturity. Interest for the period of construction of any water supply and transmission system and for 1 year thereafter, and operating expenses of the authority during the construction period and not to exceed 6 months thereafter, may be capitalized and included as a part of any bond issue.

HISTORY: New 1957, p. 8, Act 4, Imd. Eff. Mar. 20.

121.14 Bonds; terms, interest, redemption, payment.

Sec. 14. Bonds issued by any authority shall be serial bonds with annual maturities, the aggregate of which shall not exceed 40 years, the first of which shall fall due not more than 5 years from the date of issuance, and no principal maturity after 5 years from date of issuance shall be less than 1/5 of the amount of any subsequent principal maturity. The bonds shall bear interest at a rate not exceeding 6% per annum, may be made redeemable prior to maturity on such terms and conditions, and with such premium as shall be provided by the resolution authorizing their issuance, and may be

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made registrable as to principal only under such terms and conditions as may be determined in the resolution. The principal of and interest upon bonds issued under the provisions of this act shall be payable from the proceeds of the collection of taxes which the authority is authorized to levy in accordance with the provisions of section 16 of this act.

HISTORY: New 1957, p. 8, Act 4, Imd. Eff. Mar. 20.

121.14a Bonds; resolution, publication, referendum, petition, special election.

Sec. 14 (a) The resolution authorizing the issuance of bonds by the authority shall be published in full in a newspaper of general circulation within the corporate limits of the authority within 1 week after its adoption. If, within 30 days from the publication of the resolution, a petition signed by not less than 2 per centum of the registered electors who have property assessed for taxation in any part of the authority, or the lawful husband or wife of such persons, shall have been filed with the secretary of the authority, requesting a referendum upon the question of the issuance of such bonds, then the same shall not be issued until approved by the vote of a majority of such qualified electors residing within the corporate limits of the authority voting thereon. In the event such a petition for a referendum is filed with the secretary of the authority within the time above limited, the board of commissioners of the authority, by resolution, shall establish the date of such election which shall be not less than 60 days nor more than 90 days after the adoption of such resolution. The secretary of the authority shall, within 3 days after the adoption of such resolution, transmit a certified copy thereof to the governing body of each city, village or township which is a part of the authority. The governing body of each such city, village or township shall forthwith provide for an election in accordance with the resolution so passed, in which the question of issuing such bonds shall be submitted. The ballots for use in such election shall be provided by the authority and the elections shall be conducted in the same manner as all special elections are required to be conducted in the respective cities, villages and townships except that wherever any part or all of a village belonging to such authority is located in a township which is not a member of the authority, the village shall conduct such special election. The governing bodies of such cities, villages and townships which are a part of the authority shall act as a board of canvassers and shall certify the results of such election to the board of commissioners of the authority within 5 days after the date of the election. The board of commissioners of the authority within 5 days after the date of election shall compile and tabulate the vote as received from the respective cities, villages and townships and certify the result of such election by resolution upon the records of the authority and a majority of the total valid votes cast at such an election voting "yes" on the question submitted shall constitute an approval.

HISTORY: New 1957, p. 9, Act 4, Imd. Eff. Mar. 20.

121.15 Bonds; issuance, approval, sale, refunding.

Sec. 15. Bonds issued by any authority under the provisions of this act shall be issued subject to the prior permission of the municipal finance commission or the successor state agency or commission having jurisdiction over the issuance of municipal bonds, and shall be sold at public sale on at least 7 days' notice by publication in accordance with the requirements of section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943, as amended, being section 133.2 of the Compiled Laws of 1948. Refunding bonds may be issued by the authority under the conditions permitting such refunding and subject to the applicable provisions therefor specified in Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1957, p. 9, Act 4, Imd. Eff. Mar. 20.

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121.16 Taxes; rates, assessment, levy, collection, subjects.

Sec. 16. The authority shall levy each year a sufficient tax, taking into account the probable delinquency in tax collections, to pay the principal and interest on all bonds lawfully issued by the authority under the provisions of this act, maturing prior to the next tax collection period. If on July 1 of any year, there are funds on hand in the debt retirement fund earmarked for the payment of principal and interest on the bonds, then the annual tax levy shall be in such amount as will produce sufficient funds, taking into account the earmarked funds on hand, to pay the principal and interest on the bonds maturing prior to the next tax collection period. The tax for the purpose of paying the bonded indebtedness shall be unlimited as to rate or amount. Such tax rate shall be uniform for all territory comprising the authority. The tax rate for all cities which are members of the authority shall be based and assessed upon the current state equalized valuation of such cities. The tax rate for all villages which are members of the authority shall be based and assessed upon that portion of the state equalized valuation of the whole township in which such village is located as the assessed valuation of such village bears to the assessed valuation of the whole township in which such village is located, as determined by the township board of review. The tax rate for all townships which are members of the authority shall be based and assessed upon the current state equalized valuation of the township, but in those townships in which there are 1 or more villages which are also members of the authority the tax rate shall be based and assessed on the state equalized valuation of such township less the proportion of the state equalized valuation of such township which the total assessed valuation of such village or villages, as determined by the township board of review, bears to the total assessed valuation of such township as a whole, as determined by the township board of review. In determining the tax rate, the authority shall use the state equalized valuation determined and fixed as of July 1 of each year. On or before August 1 of each year, the authority, by its board of commissioners, shall certify to the tax collecting officers of each city and township comprising the authority, the tax rate determined by it to be necessary for the above purposes, and the tax collection officers shall include the tax rate as a separate item in the next county tax levied in the city or township. All such taxes shall be assessed, levied, collected and returned in the same manner as county taxes under the property tax laws of the state, shall have the same priority rights and bear the same interest and penalties as county taxes. In the levy and collection of such taxes, the tax collecting officials of the cities and townships comprising the authority, and the county treasurers in the event such taxes are returned delinquent, shall be deemed to be acting as agents for and on behalf of the authority. All moneys collected by any tax collecting officer from the tax levied under the provisions of this act shall be transmitted as collected to the authority and used by it solely for the payment of principal and interest on its bonds issued in accordance with the provisions of this act. Any village which is a part of the authority shall be considered a part of the township in which it is located for the purposes of this section, if the township is a part of the authority. If any village which is a part of the authority is located in a township which is not a part of the authority, the authority shall certify to the township treasurer of the township in which the village is located, the tax rate as above determined, and the taxes shall be levied and collected as a part of, and as an independent item in the county tax bills levied in the village. The subjects of taxation for the authority purposes shall be the same as for state, county and school purposes under the general law.

HISTORY: New 1957, p. 9, Act 4, Imd. Eff. Mar. 20.

121.17 Taxes; deposit in debt retirement fund depositary.

Sec. 17. The authority, at the time of the issuance of bonds, shall establish in a bank qualified to do business in the state a separate depositary account to be designated the

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debt retirement fund, which fund shall be kept separate from all other moneys of the authority, and shall be used only to pay the bonded indebtedness of the authority incurred in accordance with the authorization contained in this act. All moneys received by the authority from the taxes levied by it pursuant to the provisions of section 16 of this act shall be deposited into the fund as collected.

HISTORY: New 1957, p. 10, Act 4, Imd. Eff. Mar. 20.

121.18 Taxes; administration expenses.

Sec. 18. The authority may levy in any year, in addition to the tax required for the payment of bonded indebtedness, a tax for the purpose of providing funds for administration expenses of the authority and such other purposes of the authority as may be determined to be necessary by the board of commissioners. The tax shall be uniform and shall in no event exceed 1/2 mill on the combined state equalized valuation for all governmental units comprising the authority, and shall be levied only after the adoption of a resolution therefor by unanimous vote of all the members of the board of commissioners of the authority. The tax shall be levied and collected in the same manner as taxes for the payment of bonded indebtedness are levied and collected under the provisions of section 16 of this act.

HISTORY: New 1957, p. 10, Act 4, Imd. Eff. Mar. 20.

121.19 Taxes; payment by constituent municipality.

Sec. 19. Any city, township or village which is located in a township which is not a part of the authority, within 30 days after certification of the tax rate by the authority as required by section 16 of this act, in lieu of the levy and collection thereof, may pay to the authority the full amount of the tax as though fully collected, out of funds available for such purpose, in which event it shall not be obligated to include the tax rate as a part of the county tax bills as required by sections 16 and 18 of this act. Any such city, village or township may pay such moneys out of water rates and charges which it may charge users of water from its local distribution system, or from such revenues not earmarked for the payment of indebtedness by virtue of bonds issued under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, and any ordinance enacted pursuant to its provisions, or from such other moneys which may be lawfully used for such purposes.

HISTORY: New 1957, p. 11, Act 4, Imd. Eff. Mar. 20.

121.20 Contract payments; powers of municipal legislative body.

Sec. 20. The legislative body of each city, village or township which is a part of the authority may raise by tax, pay from its general funds, or from its revenues derived from operation of its water system not earmarked or pledged for other purposes, any moneys required to be paid for water purchased from the authority by the terms of any contract between it and the authority pursuant to the provisions of section 10 of this act.

HISTORY: New 1957, p. 11, Act 4, Imd. Eff. Mar. 20.

121.21 Charter water authority; body corporate; charter, powers.

Sec. 21. The authority shall be a municipal corporation, and a public body corporate with power to sue and be sued in any court of this state. This act shall be considered to be its charter, and it shall possess all powers necessary to carry out the purposes of its incorporation and those incident thereto as expressed in this act. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

HISTORY: New 1957, p. 11, Act 4, Imd. Eff. Mar. 20.

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121.22 Authority; acquisition of water supply and transmission system, condemnation.

Sec. 22. The authority may acquire property for a water supply and transmission system by purchase, construction, lease, gift, devise or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate statute.

HISTORY: New 1957, p. 11, Act 4, Imd. Eff. Mar. 20.

121.23 Authority; change in municipal jurisdiction.

Sec. 23. No change in municipal jurisdiction over any territory within an authority shall affect in any manner the authority or its boundaries. If a new city is incorporated from a township in the authority, then the new city shall be deemed to be a part of the authority, and a constituent municipality thereof. No change in the jurisdiction over any territory in any city, village or township which has contracted to purchase water from the authority pursuant to the provisions of section 10 of this act, shall impair in any manner the obligations of the contract, but the same shall be carried out, insofar as such territory is concerned, by the authority and the municipality as shall have jurisdiction to furnish water to the territory.

HISTORY: New 1957, p. 11, Act 4, Imd. Eff. Mar. 20.

121.24 Authority; advancements for administrative expense.

Sec. 24. The legislative body of each municipality which is a part of the authority may advance or loan to the authority any moneys required for administrative expenses or for the purpose of obtaining maps, plans, designs, specifications and cost estimates of a proposed water supply and transmission system. Any advances or loans may be included as a part of any bond issue by the authority under the provisions of this act, and repaid to the municipality upon the sale of the bonds.

HISTORY: New 1957, p. 11, Act 4, Imd. Eff. Mar. 20.

121.25 Authority; contracts for water to nonconstituent municipalities, duration.

Sec. 25. The authority and any municipality which is not a part thereof, may enter into a contract for the furnishing of water service from any water supply and transmission system owned or operated by the authority. The contract shall provide for reasonable charges or rates for the service furnished, which shall be not less than the rates charged to municipalities of the same classification which are a part of the authority. Any income derived from such contracts shall be applied and used by the authority in the same manner as provided in section 9 of this act. No such contract shall be for a period exceeding 40 years.

HISTORY: New 1957, p. 12, Act 4, Imd. Eff. Mar. 20.

121.26 Joinder of municipality after incorporation of authority; procedure.

Sec. 26. (1) Any municipality which did not join in the incorporation of an authority may become a part thereof by:

(a) The adoption of a resolution by the legislative body of the municipality indicating its intent to become a part of the authority, a certified copy of which resolution shall be forwarded to the secretary of the board of commissioners of the authority;

(b) The adoption of a resolution by the board of commissioners of the authority approving the addition of the municipality to the authority as a part thereof and specifying the terms and conditions of admittance. The resolution shall require a 2/3 majority of the total authorized votes of the board of commissioners; and

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(c) The submission of the question of joining the authority to a vote of the qualified electors of the municipality at any general or special election called for such purpose.

(2) The question submitted shall be in substantially the form provided in section 2 of this act, except the name of the incorporated authority may be expressed in the ballot. The proposition shall be deemed to have carried if a majority of the qualified electors in the municipality voting thereon vote in favor of the proposition.

(3) Proof of the foregoing requirements shall be filed with the secretary of state and the county clerk of the county in which the municipality is located. The municipality, from the date of such filing, shall be deemed a part of the authority and subject to the provisions of this act.

HISTORY: New 1957, p. 12, Act 4, Imd. Eff. Mar. 20.

121.27 Additional powers.

Sec. 27. The powers herein granted shall be in addition to those granted by any charter or other statute.

HISTORY: New 1957, p. 12, Act 4, Imd. Eff. Mar. 20.

121.28 Construction of act.

Sec. 28. The provisions of this act shall be liberally construed in the interest of the public health and welfare and the safety of persons and property within the authority incorporated under the provisions of this act.

HISTORY: New 1957, p. 12, Act 4, Imd. Eff. Mar. 20.

121.29 Charter water authorities; short title.

Sec. 29. This act shall be known and may be cited as the "charter water authority act".

HISTORY: New 1957, p. 12, Act 4, Imd. Eff. Mar. 20.

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CHAPTER 123. LOCAL GOVERNMENTAL AFFAIRS

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123.1002 State boundary commission; creation; members; vacancies; compensation; chairman.
123.1003 State boundary commission; employees and consultants.
123.1004 State boundary commission; offices and facilities; rules, regulations, and procedures; meetings; records; oaths.
123.1005 State boundary commission; county members, appointment, term, vacancy, compensation and qualifications; municipal boundary adjustment.
123.1006 State boundary commission; process of petitions; disposition.
123.1007 Proceedings for incorporation of municipalities; census.
123.1008 Review of proposed incorporation; certification; public hearing, notice; effect of order for public hearing.
123.1009 Review of proposed incorporation; criteria.
123.1010 Denial or approval of proposed incorporation; revision of boundaries; submission of question to electors.
123.1011 Succession to property and liabilities; division of properties; sharing of revenues; tax assessment and collection.
123.1012 Proceedings for consolidation; petition; inclusion of areas; consolidations that cannot be acted upon; submission to electors; election, procedures.
123.1013 Charter commissioners; qualifications, number; eligibility.
123.1014 Form of ballot; election expenses; qualifications of the commissioners.
123.1015 Charter commission; meeting, notice; procedure for adopting charter; powers, duties, and procedure of commission; adoption of charter.
123.1016 Charter of consolidated city; preparation, contents; effect of adoption of provisions in charter.
123.1017 Corporate status of municipalities; effect of final adoption of charter; resubmission; effect of unfavorable vote, time.
123.1018 Judicial review.
123.1019 State boundary commission within department of treasury; establishment.
123.1020 Repeals.

Act 38, 1883, p. 29; Eff. Sep. 8.

AN ACT to provide for adjustment of rights and liabilities on division of territory of cities and townships.

The People of the State of Michigan enact:

123.1 Division of territory; adjustment of property rights and liabilities.

Sec. 1. When land shall be detached from any city or township in this state and attached to any city or township, or organized into a new township, the moneys, rights, credits and personal property belonging to any city or township, the boundary of which may be so changed, or from which a new township shall be organized, shall be divided between said cities, townships, or city and township; the city or township to which said territory is attached, or the newly organized township, as the case may be, to have such a proportion as the value of the taxable property attached thereto, or em-

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braced in such new township, bears to the whole value of the taxable property of the city or township from which said territory was detached and the city or township from which territory is detached shall be entitled to the balance of said moneys, rights, credits and personal property, the value of said taxable property to be ascertained from the assessment roll of said city or township made immediately before such change of boundary: Provided, That in case said assessment roll shall have been lost or destroyed, the value of said taxable property may be ascertained by the assessment or tax roll of said city or township made before and nearest to the time of said change of boundary which can be produced; and in case all of the assessment and tax rolls of said city or township made prior to such division or organization of the new township shall have been lost or destroyed, then the value of said taxable property may be determined by any other competent evidence.

HISTORY: How. 3109b;—Am. 1887, p. 60, Act 51, Imd. Eff. March 29;—CL 1897, 3462;—CL 1915, 3452;—CL 1929, 2334;—CL 1948, 123.1.

CITED IN OTHER SECTIONS: Sections 123.1 to 123.11 are cited in § 123.33.

123.2 Division of territory; sale of lands; division of proceeds.

Sec. 2. When the boundary of any city or township shall be changed in the manner provided in the preceding section, any land of which such city or township, from which said territory is detached, shall be seized, shall be sold by the proper city or township authorities of the city or township in which said land was located before the division, and the moneys derived from such sale shall be divided between the said city and township in the manner provided in section 1 of this act; and the city or township in which the said land may be situated after the change of boundary may purchase the said real estate.

HISTORY: How. 3109c;—CL 1897, 3463;—CL 1915, 3453;—CL 1929, 2335;—CL 1948, 123.2.

123.3 Division of territory; burial grounds.

Sec. 3. The preceding section of this chapter shall not apply to any cemetery or burying ground belonging to any city or township, but the same shall belong to the city or township within which it may be situated after the division shall have been made.

HISTORY: How. 3109d;—CL 1897, 3464;—CL 1915, 3454;—CL 1929, 2336;—CL 1948, 123.3.

123.4 Division of territory; apportionment of debts.

Sec. 4. All debts owing by a city or township from which territory has been detached, as provided for in section 1 of this act, shall be apportioned in the same manner as the personal property of such city or township, and each city and township shall be charged with and pay its share of the debts according to such apportionment.

HISTORY: How. 3109e;—CL 1897, 3465;—CL 1915, 3455;—CL 1929, 2337;—CL 1948, 123.4.

123.5 Division of territory; joint settlement meeting, notice.

Sec. 5. As soon after the said change of boundary as practicable either any city or township, the boundary of which has been changed, may give notice to the other cities or townships, the boundaries of which have been changed by such division, to meet with said city or township giving the notice for a settlement of the matters in difference between said cities or city and township growing out of the said division and change of boundary, which notice may be served, in case of cities, upon the mayor of the city, and in case of townships upon the township clerk, and such notice shall specify the object for which it is given, the place of meeting, which shall be in 1 of said cities or townships, and the time of such meeting, which shall not be less than 20 days after service of such notice as aforesaid.

HISTORY: How. 3109f;—CL 1897, 3466;—CL 1915, 3456;—CL 1929, 2338;—CL 1948, 123.5.

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123.6 Division of territory; representation at settlement meeting; duties at meeting.

Sec. 6. If said notice is given by a city it shall be the duty of the mayor of said city to appoint a committee of 4 from the aldermen of said city to meet with the township board of any such township and settle the matters in difference between the city and townships. And it shall be the duty of the mayor of any city upon which such notice shall be served to appoint from the aldermen of the city a committee of 4 for like purpose; and the township clerk of the township upon whom such notice shall be served shall immediately give notice to the members of the township board of the time and place said meeting has been called, and it shall be the duty of said committees so appointed in such cities and the township boards of any such townships, to meet at the time and place designated in the notice, and make a fair and equitable division of the money, rights, credits, and personal estate, and apportionment of the indebtedness of said cities or townships from which territory has been detached, as provided in section 1 of this act, between the said city and townships.

HISTORY: How. 3109g;—CL 1897, 3467;—CL 1915, 3457;—CL 1929, 2339;—CL 1948, 123.6.

123.7 Division of territory; institution of proceedings in chancery; decree.

Sec. 7. If the mayor of any such city upon whom such notice shall be served shall neglect or refuse to appoint a committee as provided for in section 6 of this act, or the township clerk of any township shall neglect or refuse to notify the township board of the time and place of such meeting, or if said committee be appointed and such township board notified, if they shall neglect or refuse to meet at the time and place specified for the settlement, or having met, shall refuse, fail, or neglect to arrive at a settlement of the matters submitted to them by the preceding sections of this chapter, then the city or township giving the notice may file a bill in the circuit court in chancery in the proper county against such other city or township as is entitled under the provisions of this act to have a portion of the personal property, money, rights, and effects of the city, village or township from which said land shall be detached, or liable to contribute to the payment of the debts of the said city, village, or township for an accounting and settlement, or in such suit in chancery between said city and township, or between such cities, and a decree may be entered in the said case fixing the amount which each of said cities or townships shall be entitled to of the moneys, rights, credits and personal property of said city or township, the boundary of which has been changed by detaching territory therefrom as specified in section 1 of this act, and said decree may also apportion the amount which each of said cities or townships shall be liable for of the indebtedness of any such city or township from which lands may be detached as above specified.

HISTORY: How. 3109h;—CL 1897, 3468;—CL 1915, 3458;—CL 1929, 2340;—CL 1948, 123.7.

123.8 Liability for pro rata share of indebtedness paid.

Sec. 8. Upon payment of any of its indebtedness existing prior to said change of boundary by any city or township, the boundary of which has been changed as provided for in this act, the remaining cities or townships, the boundaries of which have been changed by said division, shall be liable to and pay to the city or township paying any such indebtedness their pro rata share of the indebtedness so paid.

HISTORY: How. 3109i;—CL 1897, 3469;—CL 1915, 3459;—CL 1929, 2341;—CL 1948, 123.8.

123.9 Construction and scope of act.

Sec. 9. This act shall be applied to any change in the boundary of any incorporate village whenever it shall not be a part of any township within this state.

HISTORY: How. 3109j;—CL 1897, 3470;—CL 1915, 3460;—CL 1929, 2342;—CL 1948, 123.9.

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123.10 Construction of act; existing change but no settlement.

Sec. 10. That in all cases where the boundaries of cities or townships have been heretofore changed in the manner specified in section 1 of this act, and no settlement of the matters in difference between said cities, or city and townships, has been arranged, and no division of the moneys, rights, credits and personal property of said cities or townships made, or no apportionment of the indebtedness due from the city or township from which territory has been detached in making the division, shall have been made, the provisions of this act shall apply; and the provisions of this act shall extend to such cases and a settlement of said matters made and enforced in the same manner as though said division were made after the passage and taking effect of this act.

HISTORY: How. 3109k;—CL 1897, 3471;—CL 1915, 3461;—CL 1929, 2343;—CL 1948, 123.10.

123.11 New assessment district; assessment and collection; reassessment of bonded indebtedness; circuit court, jurisdiction.

Sec. 11. When land shall be detached from any city, township or village in this state and attached to any city, township or village, as in the first section of this act provided, and a special assessment district or districts shall have been created and a special assessment roll or rolls shall have been made and special assessments levied thereon by such city, township or village prior to the detachment therefrom of land as aforesaid, and the same shall not have been paid in full, such city, township or village from which such land is detached or to which such land is annexed may create a new assessment district or districts out of the territory of such special assessment district or districts so attached or remaining, as the case may be, and may make a new assessment roll, and charge the property of such assessment district or districts or the owner or owners thereof with the payment of the whole or any portion of the special assessment unpaid; Provided, That in case any part of the assessment so made upon any lot or parcel of land shall have been paid in whole or in part, the said lot or parcel of land in said assessment district or districts shall be credited with the payment thereof upon such new assessment roll, or a certified copy of such special assessment roll may be made by the city, township or village having the custody thereof, and when so made shall be turned over to the municipality to which land has been annexed or detached, as the case may be, as aforesaid; and the collection of the said special assessment upon said assessment district or districts so divided shall be continued in all respects according to law by the proper officer of each of said municipalities upon the portion of the assessment district or districts within either of said municipalities after such annexation or detachment of land as aforesaid; or if the whole of any special assessment district or districts so created as aforesaid shall be annexed to another municipality, a new special assessment may be made upon the territory of the original assessment district or districts by the municipality to which said special assessment district or districts shall have been annexed, and the assessment collected in the same manner as special assessments are collected by such municipality; or the original assessment roll made by the municipality from which the land shall have been taken as aforesaid may be used by the municipality to which the assessment district or districts has been annexed, upon which to collect the assessment or any part thereof; or where any tax whatever has been levied by a municipality and subsequently part of the territory of such municipality shall have been annexed to another municipality, and said tax or any part thereof shall remain uncollected and unpaid, a certified copy of the tax roll shall be made by the municipality having the custody thereof and turned over to the municipality to which a part of such territory has been annexed, and said tax shall then be collected by the proper officer of each of said municipalities upon the portion of territory within the jurisdiction of each, and in case the whole of the territory of a munici-

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pality is taken by being annexed to another municipality or a new municipality created therefrom, the tax roll of the municipality making the same may be used by such municipality or the municipality to which such land is annexed, and the tax collected in the same manner as other taxes are collected by municipalities under the law. Where a special assessment district shall have been charged with the payment of money evidenced by bond issue or otherwise and the same shall have been divided by the detachment of land as aforesaid, and the authorities of each of the municipalities are unable to agree upon the division and assumption of said bond issue or other indebtedness, then the circuit court in chancery of the county wherein is located the municipality to which land has been attached shall have the power to apportion the payment of said bonds or other evidence of indebtedness between the said special assessment district or districts, according to the proportion each part of said special assessment district or districts should bear when divided as aforesaid. If for any reason any special or general assessment or tax levy in this act enumerated shall be declared void by a court of competent jurisdiction on account of any error or omission in the proceedings had or taken in making such special or general assessment or tax levy, the common council or other proper authority of such municipality shall cause a reassessment to be made upon the original assessment district or so much thereof as is within its jurisdiction, in the same manner and with like effect as assessments of like character are made by such municipality for general and special purposes under the charter and laws of such municipality; nor shall any assessment herein mentioned be held invalid by any court on account of any defect or omission in the proceedings had or taken in the making of said assessment, unless the person or persons complaining thereof be required to pay such sum or sums as said court may find the property assessed in said assessment roll shall have been benefited by the making of such assessment. The said circuit court in chancery is hereby given full and ample power to determine and adjudicate every question which may arise under the provisions of this act, where provision for the solution of such question is not herein already made. The foregoing act as in this section amended shall apply and be applicable to all cases where the boundaries of cities, townships or villages have been heretofore changed or may hereafter be changed, in the manner specified in section 1 of this act.

HISTORY: Add. 1909, p. 674, Act 290, Eff. Sept. 1;—CL 1915, 3462;—CL 1929, 2344;—CL 1948, 123.11.

123.21, 123.22 Repealed. 1968, p. 289, Act 191, Eff. Nov. 15.

Section related to consolidation of municipalities, referendum, charter commission proceedings, effect and resubmission.

Act 123, 1949, p. 133; Eff. Sep. 23.

AN ACT to provide for the disconnection of land from cities and villages; and to declare the effect thereof.

The People of the State of Michigan enact:

123.31 Disconnection of farm land from city or village.

Sec. 1. The owner or owners of any area of farm land consisting of 1 or more tracts, lying within the corporate limits of any city or village, may have the same disconnected from such city or village under the provisions of this act if such area of land

(1) Contains 10 or more acres;

(2) Is not subdivided into city or village lots and blocks;

(3) Is located on the border or boundary of the city or village: Provided, however, That such disconnection shall not result in the isolation of any part of the said city or village from the remainder of such city or village;

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(4) Shall have been for a period of 3 years next preceding the filing of the petition provided for in section 2 hereof, used for agricultural purposes only.

HISTORY: New 1949, p. 133, Act 123, Eff. Sep. 23.

123.32 Disconnection of farm land from city or village; petition, filing, contents; determination of court; denial.

Sec. 2. The owner or owners of any such area of land who desire such disconnection shall file a petition in the circuit court of the county where the land, or the greater part thereof, is situated, and in such petition shall allege facts in support of such disconnection. The particular city or village shall be made defendant, and it, or any taxpayer resident in such municipality, may appear and defend against such petition. If the court finds that the allegations of the petition are true and that the petitioner has met the qualifications as set forth in section 1 hereof, then such area of land shall be entitled to disconnection under the provisions of this act, and the court shall order said land disconnected from such city or village. In case of the disconnection from a city of any land which previously constituted a part of 1 or more townships, such land shall thereupon attach to and become a part of such township or townships, which shall be specified in the judgment. In case of the disconnection of any other land, the court shall determine and specify in the judgment what township or townships such land shall attach to and become a part of: Provided, however, That if by reason of city or village owned sewers, sidewalks, highways, water mains, gas mains, or other public improvements, upon or abutting said property, it would be inequitable to such city or village to grant said petition, in such case only may the court in its discretion deny the same even though petitioner has met the qualifications set forth in section 1 hereof.

HISTORY: New 1949, p. 134, Act 123, Eff. Sep. 23.

123.33 Disconnection of farm land from city or village; assessment for bonded indebtedness; division as between municipalities; sale for delinquent taxes.

Sec. 3. The disconnection of any such area of land shall not exempt it from taxation for the purpose of paying any bonded indebtedness contracted prior to the filing of such petition by the corporate authorities of the city or village, but such land shall be assessed and taxed for this purpose until such indebtedness is completely paid, the same as though not disconnected. The division of said indebtedness as between the municipalities involved shall be according to the provisions of Act No. 38 of the Public Acts of 1883, as amended, being sections 123.1 to 123.11, inclusive, of the Compiled Laws of 1948. Such disconnection shall not affect the lien upon any property for taxes for county, township, school, city or village purposes, or special assessments which have been levied thereon prior to such disconnection. Such disconnection shall not prevent the sale of any such land or parcels of land for delinquent taxes due to such county, township, school district, city or village at any regular state tax sale held in the manner provided by law, or at any regular tax sale of a city or village which, by its charter, has the right to sell lands for unpaid taxes or special assessments.

HISTORY: New 1949, p. 134, Act 123, Eff. Sep. 23.

123.34 Judgment; recording.

Sec. 4. The owner or owners of said land shall thereupon cause said judgment, or a certified copy thereof, to be recorded in the office of the register of deeds of the county or counties wherein said land is situate, and shall deliver a certified copy thereof to the auditor general of the state by registered mail.

HISTORY: New 1949, p. 134, Act 123, Eff. Sep. 23.

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123.35 Disconnection of land from city or village; cities and villages excepted.

Sec. 5. The provisions of this act shall not apply in the case of proposed disconnection of any land from cities of over 5,000 population. The provisions of this act shall not apply in the case of proposed disconnection of any land from incorporated villages under 400 population according to the latest or each succeeding federal decennial census. The provisions of this act shall not apply in the case of proposed disconnection of any lands from any city or village the population of which has increased more than 18 per cent during the interval between the federal census of 1940 and the federal census of 1950.

HISTORY: New 1949, p. 134, Act 123, Eff. Sep. 23;—Am. 1953, p. 189, Act 158, Eff. Oct. 2.

123.36 Territory annexed to city or village; exemption.

Sec. 6. The provisions of this act shall not apply to territory which has been annexed to an incorporated city under the provisions of Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38, inclusive, of the Compiled Laws of 1948, or Act No. 215 of the Public Acts of 1895, as amended, being sections 81.1 to 113.20, inclusive, of the Compiled Laws of 1948, or to territory which has been annexed to villages under the provisions of Act No. 278 of the Public Acts of 1909, as amended, being sections 78.1 to 78.27, inclusive, of the Compiled Laws of 1948, or Act No. 3 of the Public Acts of 1895, as amended, being sections 61.1 to 75.12, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1949, p. 135, Act 123, Eff. Sep. 23.

Act 199, 1929, p. 517; Eff. Aug. 28.

AN ACT to authorize and empower villages and townships of this state having a population not exceeding 10,000 inhabitants, to levy a tax for the maintenance or the purchase of lands and maintenance of property for a community center for the benefit of the public, provided the question of such purchase or maintenance, or both purchase and maintenance, as the case may be, is submitted to the duly qualified voters of such villages or townships and is adopted by a majority vote of those participating in said election.

The People of the State of Michigan enact:

123.41 Referendum.

Sec. 1. The township board, village council, common council, commission, or other legislative body of any township or village of this state, having a population not exceeding 10,000 inhabitants, upon petition of 10 per centum of the qualified voters of such township or village shall submit the question to the people as to whether such village or township, as the case may be, shall come under the provisions of this act and, if adopted by a majority vote of the qualified voters participating in said election, then this act shall be in full force and effect.

HISTORY: CL 1929, 2375;—CL 1948, 123.41.

123.42 Community center; annual tax levy, credit.

Sec. 2. In all villages, or townships adopting the provisions of this act, the legislative body thereof is authorized and empowered to levy an annual tax not exceeding 2 mills on each dollar of the assessed valuation of such village or township as the case may be, for the maintenance, or the purchase and maintenance of property for a community center for the benefit of the public. The said tax shall be levied and collected at the same time and in the same manner as other general taxes of the said village or town-

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ship are levied and collected. And the taxes thus collected under the provisions of this act shall be deposited in the village or township treasury to the credit of the community fund.

HISTORY: CL 1929, 2376;—CL 1948, 123.42.

TAXATION: See Compilers' § 211.1 et seq.

123.43 Community center; board of directors, vacancies.

Sec. 3. After any village or township shall have voted to establish a community center the governing body of such village or township shall appoint 6 directors which shall hold office until their successors are elected and qualified, and at the next regular election there shall be elected a community board of 6 directors, 2 for 1 year, 2 for 2 years, and 2 for 3 years; and annually thereafter there shall be elected 2 directors who shall hold their office for 3 years or until their successors are elected and qualified. The said directors shall receive no compensation as such. Vacancies in the board of directors occasioned by removals, resignations or otherwise, shall be reported to the governing body of the village or township who shall proceed to appoint a director to fill said vacancy.

HISTORY: CL 1929, 2377;—CL 1948, 123.43.

123.44 Board of directors; powers, duties.

Sec. 4. When such community center shall have been established and a board of directors elected and qualified as herein provided said directors shall immediately meet and organize, by the election of 1 of their number president, and by the election of such other officers as they may deem necessary. They shall on or before the first day of September in each year, prepare an estimate of the amount of money necessary for the support and maintenance of such community center for the ensuing year, and report such estimate to the assessor of such village or township for assessment and collection and the same shall be assessed and collected as in this act provided, and they shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the community house and grounds, as may be expedient and not inconsistent with this act, they shall have power to purchase or lease grounds, to occupy, lease, or erect, appropriate buildings for the use of said community center, and shall have the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose, and shall also have the authority to employ a suitable community director, and necessary assistants and fix their compensation, and shall also have power to discharge such appointees, and shall, in general, carry out the spirit and intent of this act in establishing and maintaining a community center. Said board of directors shall also have charge of the expenditure of all moneys collected to the credit of the community fund, shall draw their order on the community fund for any expenses incurred, and the governing body of the village, or township shall cause the order to be paid from the community fund. The said board of directors shall keep a record of the proceedings of said board and a complete record of their expenditures.

HISTORY: CL 1929, 2378;—CL 1948, 123.44.

123.45 User of community center; exclusions.

Sec. 5. Every community center established under this act shall be free to the use of the inhabitants where located, always subject to such reasonable rules and regulations as the community board may adopt; and said board may exclude from the use of said community building and grounds any and all persons who shall wilfully violate such rules.

HISTORY: CL 1929, 2379;—CL 1948, 123.45.

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123.46 Legislative body; relinquishment of control power by legislative body.

Sec. 6. Any such village or township having previously adopted the provisions of this act, may at any time thereafter relinquish said authority or power by following the same procedure as provided in this act for adopting the provisions thereof: Provided, That such action may be taken by the legislative body aforesaid only after a petition signed by 10 per centum of the qualified voters residing in such village or township, as the case may be, duly filed with the legislative body thereof at least 90 days prior to the date of re-submission asking that the question of relinquishment of said authority be re-submitted to the vote of the people.

HISTORY: CL 1929, 2380;—CL 1948, 123.46.

Sec. 7. (This was a repeal section.)

HISTORY: CL 1929, 2381;—Rep. 1945, p. 407, Act 267, Imd. Eff. May 25.

Act 156, 1917, p. 284; Eff. Aug. 10.

AN ACT authorizing cities, villages, counties, townships and school districts to operate systems of public recreation and playgrounds.

The People of the State of Michigan enact:

123.51 Public recreation system; powers of municipality.

Sec. 1. Any city, village, county or township may operate a system of public recreation and playgrounds; acquire, equip and maintain land, buildings or other recreational facilities; employ a superintendent of recreation and assistants; vote and expend funds for the operation of such system.

HISTORY: CL 1929, 2389;—CL 1948, 123.51.

CITED IN OTHER SECTIONS: Sections 123.51 to 123.54 are cited in § 41.442.

123.52 Public recreation system; powers of school district.

Sec. 2. Any school district may operate a system of public recreation and playgrounds, may vote a tax to provide funds for operating same, and may exercise all other powers enumerated in section 1.

HISTORY: CL 1929, 2390;—CL 1948, 123.52.

123.53 Public recreation system; operation.

Sec. 3. Any city, village, county, township or school district may operate such a system independently or they may cooperate in its conduct in any manner in which they may mutually agree; or they may delegate the operation of the system to a recreation board created by any or all of them, and appropriate money, voted for this purpose, to such board.

HISTORY: CL 1929, 2391;—CL 1948, 123.53.

123.54 Public recreation system; location.

Sec. 4. Any municipal corporation or board given charge of the recreation system is authorized to conduct its activities on (1) property under its custody and management; (2) other public property, under the custody of other municipal corporations or boards, with the consent of such corporations or boards; (3) private property, with the consent of the owners.

HISTORY: CL 1929, 2392;—CL 1948, 123.54.

Act 90, 1913, p. 128; Eff. Aug. 14.

AN ACT authorizing and empowering the boards of supervisors of counties to purchase, acquire by condemnation, accept gifts and devises of real estate for, and to im-

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prove and maintain public parks and zoological gardens, airports and landing fields, and to contribute to the improvement and maintenance of public parks and public zoological gardens, airports and landing fields, owned or held in trust by cities, villages or townships or used for the benefit of the public; to authorize the making of reasonable rules and regulations relative to the public use of park property; and to provide penalties for violations of such rules and regulations. Am. 1929, p. 533, Act 210, Eff. Aug. 28;—Am. 1931, p. 451, Act 268, Eff. Sep. 18;—Am. 1953, p. 199, Act 165, Imd. Eff. Jun. 3.

The People of the State of Michigan enact:

123.61 County park, zoological garden or airport; land, acquisition, appropriation; vote.

Sec. 1. It shall be lawful for and the several boards of supervisors are hereby authorized and empowered to purchase, acquire by condemnation, and to accept gifts and devises of real estate for purposes of public parks, public zoological gardens, airports and landing fields either or both, when such lands lie within the boundaries of their respective counties or within the boundaries of any adjoining county, and to make appropriations covering the costs of such purchases or acquisitions by condemnation and incidental to the acceptance of such gift or devise: Provided, When such lands are purchased, acquired by condemnation, given or devised to any county adjoining a county wherein such lands are situate, they shall be conveyed or devised to such counties jointly: Provided further, however, That a 2/3 vote of the members-elect of a board of supervisors shall be necessary to authorize the purchase or condemnation of real estate designed for such public park, public zoological garden, airport and landing field purposes.

HISTORY: CL 1915, 2318;—Am. 1921, p. 54, Act 36, Eff. Aug. 18;—Am. 1929, p. 533, Act 210, Eff. Aug. 28;—CL 1929, 2393;—Am. 1931, p. 451, Act 268, Eff. Sept. 18;—CL 1948, 123.61.

AVIATION: See Compilers' § 259.1 et seq.

SALE OF LANDS: See Act 258 of 1925, being Compilers' § 554.401 et seq.

123.62 County park, zoological garden or airport; land, acquisition; appropriation for improvement and maintenance.

Sec. 2. It shall be lawful for and the several boards of supervisors are hereby authorized and empowered to make appropriations for the improvement and maintenance of such public parks, public zoological garden property, airports and landing fields, as shall have been purchased or acquired by condemnation or accepted by way of gift or devise or if used for the benefit of the public.

HISTORY: CL 1915, 2319;—Am. 1929, p. 533, Act 210, Eff. Aug. 28;—CL 1929, 2394;—Am. 1931, p. 452, Act 268, Eff. Sept. 18;—CL 1948, 123.62.

123.63 County park, zoological garden or airport; owned or held in trust.

Sec. 3. It shall be lawful for, and the several boards of supervisors are hereby authorized and empowered to make appropriations by way of contributing toward the improvement and maintenance of any such public parks, public zoological gardens, airports and landing fields, either owned or held in trust by any township, city or village within their respective counties or any adjoining county, or for any public parks, public zoological gardens, airports and landing fields, either owned or held in trust by any adjoining county, or for any public parks, zoological gardens, airports or landing fields, either owned or held in trust by 2 or more adjoining counties.

HISTORY: CL 1915, 2320;—Am. 1921, p. 55, Act 36, Eff. Aug. 18;—Am. 1929, p. 533, Act 210, Eff. Aug. 28;—CL 1929, 2395;—CL 1948, 123.63.

123.64 County park, zoological garden or airport; county tax.

Sec. 4. For the purpose of purchasing or acquiring by condemnation property designed for such public park, public zoological garden, airport or landing field purposes,

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or either, or for improving and maintaining property so purchased or acquired or accepted by way of gift, devise or otherwise, and contributing toward the maintenance of public parks, public zoological gardens, airports and landing fields, owned or held in trust by townships, cities, villages or adjoining counties or if used for the benefit of the public, the board of supervisors may raise by tax on the property within the county subject to taxation for county purposes, such sum as said board of supervisors may deem needful; said sum or sums to be raised by tax in the manner provided by law for other county taxes, but said tax shall never exceed in any 1 year 1/4 of 1 mill on the assessed valuation of the county: Provided, That in counties having an assessed valuation of less than 8,000,000 dollars the sum raised by tax, as herein provided may equal but shall not exceed 2,000 dollars.

HISTORY: CL 1915, 2321;—Am. 1921, p. 55, Act 36, Eff. Aug. 18;—Am. 1929, p. 533, Act 210, Eff. Aug. 28;—CL 1929, 2396;—Am. 1931, p. 452, Act 268, Eff. Sept. 18;—CL 1948, 123.64.

TAXATION: See Compilers' § 211.1 et seq.

123.65 Construction of powers; boulevards.

Sec. 5. The powers and authority granted in this act, shall be deemed to include power and authority to purchase and accept gifts of lands for boulevards and highways to be laid out as boulevards by county authority and power and authority to improve the same, and the words "parks owned or held in trust by townships, cities and villages," shall be deemed to include boulevards or highways or streets laid out as boulevards and owned or held in trust by the municipalities aforesaid.

HISTORY: CL 1915, 2322;—Am. 1921, p. 55, Act 36, Eff. Aug. 18;—CL 1929, 2397;—CL 1948, 123.65.

BOULEVARDS: See Act 190 of 1929, being Compilers' §§ 213.221 to 213.223.

123.66 County park trustees; board of county road commissioners; rules and regulations, resolution, publication; report to board of supervisors.

Sec. 6. Whenever the board of supervisors of any county shall have adopted a resolution to purchase, condemn or to accept certain lands for park purposes, and make an appropriation therefor under the provisions of sections 1 and 2 of this act, there shall be created a board of 3 members to be known and designated as "county park trustees." In counties operating under the county road system, the board of county road commissioners is hereby designated and shall then act as the county park trustees. In all other counties the board of supervisors, at the time of making the appropriation above provided for, shall name and appoint from their number 3 members to be known and designated as county park trustees. Said board of trustees shall have the management, control and expenditure of such funds when collected and shall hold in trust for the county the title to any real estate so purchased, acquired by condemnation or accepted by way of gift or devise for park purposes, and shall supervise the improvement of any such property so purchased, acquired or accepted as authorized by the board of supervisors. Said board of park trustees shall have the power to impound water on any property so purchased, acquired by condemnation or accepted for park purposes and to form a lake thereon whenever they deem it necessary in the course of improving such property for park purposes. Such trustees shall also have the care and control of such park property and may make reasonable rules and regulations and enforce the same when made respecting the use by the public of such park property: Provided, That no such rule or regulation shall become effective until (1) it has been approved by resolution of the board of supervisors, (2) such resolution containing such rule or regulation has been published at least once in a newspaper of general circulation within the county, and (3) such rule or regulation has been posted in at least 3 conspicuous places in such park property, the posters to be not less than 10 inches by 12 inches in size and printed in legible type. Such posting shall be continuously maintained. They shall elect a chairman and secretary from among their number. All expenditures of funds so appropriated shall be paid only by the county treasurer on

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the warrant or voucher of the chairman and 1 other member of such board. The trustee so appointed shall make a full report to the board of supervisors at each October session as to the condition of the property and the expenditure of funds. The members of such board of county park trustees shall continue to act until their successors have been duly elected or appointed. In all counties of this state operating under the county road system when this act takes effect, the board of "county park trustees" heretofore appointed shall be immediately dissolved and cease to exist, and the board of county road commissioners shall take the place thereof and thereafter exercise the powers and perform the duties of the board of county park trustees, taking possession of all books, records and office equipment of such former board.

HISTORY: CL 1915, 2323;—Am. 1921, p. 55, Act 36, Eff. Aug. 18;—Am. 1923, p. 338, Act 215, Eff. Aug. 30;—CL 1929, 2398;—Am. 1931, p. 452, Act 268, Eff. Sep. 18;—Am. 1939, p. 504, Act 275, Eff. Sep. 29;—CL 1948, 123.66;—Am. 1953, p. 199, Act 165, Imd. Eff. Jun. 3.

123.66a County airport committee; appointment, powers, organization.

Sec. 6-a. Whenever a board of supervisors of any county shall have adopted a resolution to purchase, condemn or to accept certain lands for airport or landing field purposes and makes an appropriation therefor under the provisions of sections 1 and 2 of this act, there shall be created a board of 3 members to be known as a "county airport committee." These 3 members may be either 3 members of the board of county road commissioners or 3 members of the board of supervisors as determined by the majority vote of the members of the board of supervisors. Such county airport committee shall have the management, control and expenditure of such funds collected and shall hold in trust for the county the title to any real estate so purchased, acquired by condemnation or accepted by way of gift or devise for airport or landing field purposes and shall supervise the improvement of any such property so purchased, acquired or accepted as authorized by the board of supervisors. Such county airport committee shall have the care and control of all airport and landing field property and may make reasonable rules and regulations and enforce the same when made respecting the use by the public of such property. They shall elect a chairman and secretary from among the members. All expenditures of funds so appropriated shall be paid only by the county treasurer on the warrant or voucher of the chairman and 1 other member of such board. The committee so appointed shall make a full report to the board of supervisors at each October session as to the condition of the airport or landing field property and the expenditure of funds. The members of such committee shall continue to act until their successors have been duly elected or appointed.

HISTORY: Add. 1939, p. 505, Act 275, Eff. Sept. 29;—CL 1948, 123.66a.

123.67 Maintenance payment to local treasurer; misapplication penalty.

Sec. 7. Funds appropriated and collected for the purpose of contributing towards the maintenance of public parks, public zoological gardens, airports and landing fields, owned by counties, townships, cities and villages, under the provisions of section 3 hereof, shall be paid by the county treasurer to the treasurer of the municipality owning such park. Any county, township, city or village misapplying any portion of such funds shall be liable to the county in the full sum so contributed, and for all costs and expenses incidental, to the recovery of the same. Any person or official who shall cause or assist in the misapplication of such funds shall be deemed guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not less than 100 dollars and not more than 1,000 dollars, or to imprisonment in the county jail for not more than 6 months, or to both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 2324;—Am. 1929, p. 534, Act 210, Eff. Aug. 28;—CL 1929, 2399;—CL 1948, 123.67.

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123.68 Violation of rules and regulations; penalty.

Sec. 8. Any person who shall violate the posted rules and regulations made pursuant to section 6 of this act shall be guilty of a misdemeanor, punishable by a fine of not to exceed $50.00.

HISTORY: Add. 1953, p. 200, Act 165, Imd. Eff. Jun. 3.

Act 81, 1925, p. 109; Eff. Aug. 27.

AN ACT to provide for the making and maintenance of certain public improvements by 2 adjoining municipalities and for the assessment of the cost thereof.

The People of the State of Michigan enact:

123.71 Joint improvements; authorization by legislative body; condemnation proceedings.

Sec. 1. Any 2 adjoining cities or villages, or an adjoining city and village, may, by a 3/5 vote of their several legislative bodies, unite in making and maintaining any public improvement located on or near the boundary line between such municipalities and located either entirely within 1 or partly within each of such municipalities, and may agree upon the method and manner of making and maintaining such improvement, the division of the cost thereof, and all other matters connected therewith. In no case, however, shall any municipality pay a greater proportion of the cost of any such improvement than its legislative body shall by a 3/5 vote determine such municipality is benefited thereby. Such municipalities shall have authority in their joint names to condemn property necessary for any such improvement and for such purpose may bring proceedings under Act No. 149 of the Public Acts of this state of 1911 or under any other general law of this state in relation to the condemnation of property for public purposes. If the property to be taken is located entirely within 1 such municipality, condemnation proceedings may be taken jointly or by the municipality in which such property is located.

HISTORY: CL 1929, 2405;—CL 1948, 123.71.

NOTE: Act 149 of 1911, above referred to, is Compilers' §§ 213.21 to 213.41.

CITED IN OTHER SECTIONS: The above section et seq. is cited in § 281.628.

123.72 Joint improvements; assessment of cost.

Sec. 2. Any municipality joining in the making of any public improvement, as above provided, may assess its portion, or any part thereof, of the cost of any such improvement, upon property located in such municipality to the same extent, and in the same manner, as it might do if such improvement were entirely located within its own limits. The determination as above provided by the legislative body of a municipality as to its portion of the cost of any such improvement shall be a legal basis upon which to spread an assessment against any property benefited by such improvement.

HISTORY: CL 1929, 2406;—CL 1948, 123.72.

123.73 Additional procedure.

Sec. 3. Any city or village may by charter provide additional procedure for the carrying out of the authority herein granted, if the same shall be necessary.

HISTORY: CL 1929, 2407;—CL 1948, 123.73.

Act 261, 1925, p. 379; Imd. Eff. May 13.

AN ACT to authorize incorporated villages and cities of the fourth and fifth classes to sell and dispose of their gas, electric or other lighting plants, and to determine the procedure therefor.

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The People of the State of Michigan enact:

123.81 Sale of lighting plants by fourth, fifth class cities; referendum.

Sec. 1. The council of any city of the fourth or fifth class, or of any incorporated village, is hereby authorized to sell, transfer and convey at such price and upon such terms as said council shall deem advisable, any works, system or property owned by such city or village for the purpose of supplying such city or village and the inhabitants thereof with gas, electric or other lights, or any part of such works, system or property: Provided, That no such proposed sale, transfer and conveyance shall be valid until the same shall have been approved by the affirmative votes of 3/5 of the electors of such city or village voting thereon at a regular or special municipal or village election.

HISTORY: CL 1929, 2408;—CL 1948, 123.81.

123.82 Construction of act.

Sec. 2. Nothing in this act shall be construed to impair or otherwise affect the powers of any cities except cities of the fourth and fifth classes.

HISTORY: CL 1929, 2409;—CL 1948, 123.82.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1929, 2410;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 186, 1891, p. 244; Imd. Eff. Jul. 2.

AN ACT to authorize the cities and villages of this state to provide for the lighting of their streets and other public places therein by means of electric or other lights.

The People of the State of Michigan enact:

123.91 Lighting works; construction, operation, maintenance, contract power.

Sec. 1. That it shall be lawful for any city or incorporated village in this state to acquire by purchase or to construct, operate and maintain works for the purpose of supplying such cities or villages and the inhabitants thereof with gas, electric or other lights, or to contract for the furnishing thereof at such times and on such terms and conditions as the common council of any such city or the board of trustees in any such village shall direct.

HISTORY: CL 1897, 3437;—CL 1915, 3426;—CL 1929, 2411;—CL 1948, 123.91.

This act seems to have been intended to supersede Act 115 of 1891, p. 134, on same subject. The only essential difference between the two acts is that this act provides for contracts for furnishing light as well as construction of works by municipality. In section 1, clause "or to contract for the furnishing thereof," is inserted. In section 2, clause "or when such common council shall deem it expedient to contract for the lighting of such cities and villages, with electric or other lights," is inserted, and all after first proviso added. In section 3, vote required of electors is made "a majority," instead of "two-thirds," and proviso added. The title of this act however, does not mention "inhabitants," as does Act 115, 1891. But see Compilers' § 123.101.

DISPOSAL: Lighting works of villages, fourth and fifth class cities, see Act 261 of 1925, being Compilers' § 123.81 et seq.

123.92 Expediency resolution of council; contracts, time limit; submission of purchase, construction to electors; governing rules.

Sec. 2. Whenever the common council of any city or the board of trustees of any village shall, by resolution, declare that it is expedient for such city or village to acquire by purchase or to construct as the case may be, works for the purpose of supplying such city or village and the inhabitants thereof with gas, electric or other lights, or when such common council shall deem it expedient to contract for the lighting of such cities and villages with electric or other lights, then such common council or the board of trustees of any village or city shall have power to take such action as shall be deemed expedient to accomplish such purpose, provided such action shall be governed by the provisions of Act No. 5 of the Session Laws of 1870, approved August fourth, 1870 as amended, entitled, "An act to authorize the introduction of water into and the construction or purchase of hydraulic works in the cities and villages in the

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state of Michigan," being sections 3096 to 3109 of Howell's annotated statutes, and all the provisions of that act so far as the same shall be material shall apply to and have full force and operation in the case of cities and villages desiring to have the benefit of this act, in the same manner and to the same effect as in the case of cities and villages proposing to purchase or construct works for the purpose of supplying such city or village or the inhabitants thereof with water: Provided, That all contracts for lighting such cities or villages as hereinbefore provided shall be for a period not less than 3 nor more than 10 years: And provided further, That such contract shall be entered into in the manner prescribed by the charter of such city or village for the letting of contracts for public lighting: Provided further, That in case any such common council or board of trustees shall declare that it is expedient for such city or village to acquire by purchase or to construct, as the case may be, works for the purpose of supplying such city or village with electric or other lights, then such common council or board of trustees shall submit to the electors of the city or village the question of purchasing or constructing such works before any further proceedings are had, and no further proceedings shall be had by such common council or board of trustees, unless a majority of such electors vote for the purchasing or constructing of such works.

HISTORY: CL 1897, 3438;—CL 1915, 3427;—CL 1929, 2412;—CL 1948, 123.92.

NOTE: Act 5 of 1870, above referred to, is Compilers' §§ 123.111 to 123.130.

123.93 Petition of election to come under act; referendum; approval, effect; scope of act limited.

Sec. 3. Whenever 100 or more of the qualified electors of any city or village in this state shall petition to the common council of such city or the board of trustees of such village, to submit to the electors thereof the question of whether or not said city or village shall avail itself of the provisions of this act, it shall be the duty of such common council or board of trustees as the case may be, to submit such question to the electors of such city or village at its next regular election therein, and in case a majority of the electors shall vote in favor of such city or village availing itself of the provisions of this act, it shall thereupon become the duty of the common council of such city, or the board of trustees of such village, to take such action as shall be necessary to carry such resolution into effect in the same manner and with the same effect as if such common council or board of trustees had, by resolution, declared the same to be expedient as provided for in section 2 of this act: Provided, however, That the provisions of this act, so far as the same applies to the purchase, or construction or operation or maintenance of works for the purpose of supplying such city or village, or the inhabitants thereof, with public lights, as hereinbefore provided for, shall not apply to cities having more than 25,000 inhabitants.

HISTORY: CL 1897, 3439;—CL 1915, 3428;—CL 1929, 2413;—CL 1948, 123.93.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1915, 3429;—CL 1929, 2414;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.

Act 41, 1895, p. 137; Imd. Eff. Mar. 27.

AN ACT to authorize the cities and villages of this state which own and operate electric light works for the purpose of lighting their streets and other public places to furnish and supply electric lights to the inhabitants of such cities and villages.

The People of the State of Michigan enact:

123.101 Cities and villages furnishing light to inhabitants.

Sec. 1. That it shall be lawful for any city or incorporated village in this state not having more than 10,000 inhabitants, which now own and operate works for the pur-

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pose of supplying such city or village with electric light and lighting their streets and other public places with electric light, to furnish and supply electric light to the inhabitants of such cities or villages upon such terms and under such conditions as the common council may deem expedient.

HISTORY: CL 1897, 3440;—CL 1915, 3430;—CL 1929, 2420;—CL 1948, 123.101.

This act is identical with Act 139 of 1893, p. 226, except that limit of population is raised from 8,000 to 10,000. It did not seem necessary to include Act of 1893 in this compilation. It is also omitted in compilations of 1897, 1915, and 1929.

Act 5, 1870 (Ex. Ses.), p. 8; Imd. Eff. Aug. 4.

AN ACT to authorize the introduction of water into, and the construction or purchase of hydraulic works in the cities and villages in the state of Michigan.

The People of the State of Michigan enact:

123.111 Water supply; borrowing power of municipality.

Sec. 1. That it shall be lawful for any city or incorporated village in this state, to borrow any sum of money to be used exclusively for the purpose of purchasing grounds, rights, privileges, materials, and in making improvements connected with, and for the sole purpose of supplying such city or village, and the inhabitants thereof with water: Provided, That the total sum borrowed and raised by tax by any such municipality the first year shall not exceed 10 per cent of the assessed valuation of such municipality, as contained in the last preceding assessment roll of the same; And provided, That no more than 5 per cent shall be borrowed during any 1 year thereafter, and that the rate of interest shall not exceed 10 per cent upon any indebtedness contracted under the provisions of this act.

HISTORY: Am. 1871, p. 27, Act 25, Imd. Eff. March 3;—CL 1871, 3347;—How. 3090;—CL 1897, 3416;—CL 1915, 3401;—CL 1929, 2421;—CL 1948, 123.111.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

123.112 Bonds; issuance; payment principal, interest; referendum on borrowing.

Sec. 2. The common council of any city, or the corporate authorities of any incorporated village, shall have the power to fix the time and place of payment of the principal and interest voted under the provisions of this act, and to issue the bonds or other evidence of indebtedness of such city or village: Provided, That it shall not be lawful for the common council of any city or the corporate authorities of any incorporated village, to borrow any portion of said sum of money, unless the question of borrowing the same shall have been first submitted to the electors of such city or village at its annual election, or at a special election called for that purpose by the common council of such city, or the corporate authorities of such village and a majority of the electors voting at such election voting therefor by ballot.

HISTORY: CL 1871, 3348;—How. 3091;—CL 1897, 3417;—CL 1915, 3402;—CL 1929, 2422;—CL 1948, 123.112.

123.113 Acquisition of rights of water company; resolution of council affecting bonds.

Sec. 3. Any city or village which may have availed itself of existing provisions of law to become a stockholder in any water company may by an arrangement with the company in which it owns stock, and with the other stockholders thereof, by purchase acquire the entire rights of such water company: Provided, however, That in case such city or village shall have issued any bonds or evidences of indebtedness, in order to raise the money to pay for its stock in a water company, it shall not be permitted to perfect such arrangements until the common council of said city or the corporate authorities of said village shall, by a resolution to be entered in its minutes, undertake and promise, in consideration of such purchase to pay when due the principal and in-

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terest of all outstanding bonds issued by said city or village for the purpose aforesaid, which new promise and undertaking shall be deemed to be made to each and every person or corporation which is or may become the holder of such bonds or evidence of indebtedness.

HISTORY: CL 1871, 3349;—How. 3092;—CL 1897, 3418;—CL 1915, 3403;—CL 1929, 2423;—CL 1948, 123.113.

123.114 Management of waterworks; rates; regulations.

Sec. 4. It shall be lawful for the common council of any city or the corporate authorities of any village which shall avail itself of the provisions of this act, by the passage of proper ordinances, to provide for the appointment of a commission, or board, the term of at least 1 member of which commission or board shall expire yearly, to take the charge and management of such water works in the manner and to the extent which shall be provided in the ordinances of the city or village; and the common council of any city or the corporate authorities of any village, may by resolution or ordinance fix the rates for supplying water to the inhabitants thereof, regulate the manner of making connections, and the use of the water, which rules and regulations shall apply equally to all the inhabitants of such city or village.

HISTORY: CL 1871, 3350;—How. 3093;—CL 1897, 3419;—CL 1915, 3404;—CL 1929, 2424;—CL 1948, 123.114.

123.115 Construction of act.

Sec. 5. Nothing in this act shall be construed to affect the special provisions in the charter of any city or village, already authorizing the introduction of water into the same, and the construction of hydraulic works for the supplying of such city or village and the inhabitants thereof with water.

HISTORY: CL 1871, 3351;—How. 3094;—CL 1897, 3420;—CL 1915, 3405;—CL 1929, 2425;—CL 1948, 123.115.

123.116 Levy to pay principal and interest of bonds.

Sec. 6. It shall be the duty of the common council of any city or the corporate authorities of any village availing itself of the provisions of this act, from time to time, as it may be necessary to levy and collect such sums of money as may be required to pay the principal or interest voted by such city or village, under section 1 of this act, or the principal and interest of any bonds or other evidence of indebtedness to pay which a new promise shall have been made in accordance with section 3 of this act.

HISTORY: CL 1871, 3352;—How. 3095;—CL 1897, 3421;—CL 1915, 3406;—CL 1929, 2426;—CL 1948, 123.116.

123.117 Acquisition of property rights.

Sec. 7. If for the purpose of constructing or operating any water-works, the commission or board appointed in pursuance of section 4 of this act shall require the land of any person, or corporation, or any right of way over, through or across such land, for the use of such water-works, and shall be unable to agree with the owner or owners or parties having estates or interest in such land or his or their authorized agent, for the purchase of such land or right of way, such commission or board shall have the right to acquire the title to such ground or the necessary right of way over, through or across the same in the manner hereinafter provided.

HISTORY: Add. 1872, p. 115, Act 64, Imd. Eff. March 30;—How. 3096;—CL 1897, 3422;—CL 1915, 3407;—CL 1929, 2427;—CL 1948, 123.117.

CONDEMNATION: For other provisions relating to the condemnation of private property for public purposes, see Compilers' § 213.1 et seq., and notes thereto.

123.118 Acquisition of property rights; notice of proceedings, contents.

Sec. 8. For the purpose of acquiring such title or right of way, such commission or board shall give notice to the claimant or owners of said land, or of any interest therein, that at a time and place therein mentioned proceedings will be taken for the purpose of acquiring such title or right of way, before some justice of the peace or other judicial officer residing in such city or village or in the township in which such lands are situate; and that said claimants or owners of said land or any interest therein,

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may appear before such officer at such time and place to have their claims and interests adjusted and the compensation to be paid by such city or village for such land or interest therein, fixed and determined, which said notice shall also contain a description of the lands to be taken, and the particular use or purposes for which such lands are desired.

HISTORY: Add. 1872, p. 115, Act 64, Imd. Eff. March 30;—How. 3097;—CL 1897, 3423;—CL 1915, 3408;—CL 1929, 2428;—CL 1948, 123.118.

123.119 Acquisition of property rights; notice, service; guardian ad litem.

Sec. 9. The notice required to be given, as required in section 8, shall be served personally on such claimants or owners as can be found within this state, by delivering to them a true copy of such notice or leaving a true copy thereof at their residence, if within this state, with some person of suitable age and discretion at least 10 days before the time fixed in said notice for such hearing. And in case any of the said claimants or owners cannot be found after using due diligence for that purpose, and they have no known place of residence within this state, the commissioners shall, in such cases, cause such notice to be published for 4 successive weeks in 1 paper published at Detroit, and a like period in 1 paper published within the county where such lands are situate, should one be published therein, and in case the residence of such claimants, if without the state, can be ascertained, a copy of said notice shall be mailed to them, postage prepaid: Provided however, That if such owner or claimant is an infant or a person of unsound mind, such notice shall be served upon his or her guardian, if found within this state, and if not, then by publication as above provided: And provided further, That if such infant or person of unsound mind has no guardian, then said commissioners may make application, by petition, to the circuit court in chancery for said county, or to the probate judge of said county, for the appointment of a guardian and said court or judge shall upon such application appoint a special guardian.

HISTORY: Add. 1872, p. 115, Act 64, Imd. Eff. March 30;—How. 3098;—CL 1897, 3424;—CL 1915, 3409;—CL 1929, 2429;—CL 1948, 123.119.

123.120 Acquisition of property rights; notice; report to officer, contents; jury, summoning, empaneling, duties, compensation; procedure; fees; adjournments.

Sec. 10. At least 5 days before the time fixed in such notice for such hearing, such commission or board shall present to the justice or other officer mentioned in such notice a report, setting forth a description of the lands in such notice, the necessity for using the same, and the particular use or purpose for which such lands are desired, and whether desired in fee or otherwise, that such commission or board have been unable to agree with the owner or person interested in such land, and the time and manner of giving such notice, and attach thereto a copy of such notice, which report shall be signed by the president or secretary, together with an affidavit of service or publication of such notice attached thereto. And thereupon it shall be the duty of such justice or other officer to issue a venire facias directed to the marshal or any constable of such city, village or township, commanding him to summon 12 disinterested freeholders of the county to appear as jurors before such officer at the time and place mentioned in such notice. And it shall be the duty of the marshal or constable to whom such venire is delivered to summon such jurors personally at least 24 hours before the time when they are by said venire required to appear, and to return the same on or before the day of such hearing with his doings thereon, and the names of the persons summoned and the time and manner of summoning them. If, for any reason any juror so summoned shall not appear and his attendance cannot be procured or if any juror or jurors appearing in obedience to such venire shall be found incompetent or unfit, in the discretion of such justice or other officer before whom the proceedings are had, to serve as such juror, or has any sufficient excuse for not so serving, said justice or other officer

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shall direct the marshal or constable to forthwith summon a sufficient number of disinterested freeholders of said county as talesmen to complete the number of 12 jurors, and such jury having been first duly sworn may examine the premises and shall proceed to ascertain and determine the necessity for taking or using the land described in the said notice, and to fix and determine the title or rights which said city or village shall have to such lands. And such jury shall have full power to hear, examine, and determine of and concerning the rights, interest, and title of all and any of the claimants of said land, and also to assess the value thereof and fix the compensation, after deducting the benefits which such claimant or owners may derive therefrom, to be paid by such city or village therefor as fully and efficiently as if all the power necessary for the purposes aforesaid were herein specifically enumerated in this act, and the decision of such jury shall be final and conclusive in the premises, unless an appeal from their decision shall be taken as provided in this act; and their verdict when determined on, shall be reduced to writing and subscribed by each of said jurors, and said jury shall thereupon be discharged, Provided, That in cases where 2 or more claimants claim conflicting titles or interests in said lands the amount awarded by the jury shall be paid into the circuit court of the county in which such lands are situate and the same shall afterwards be paid to the party or parties establishing their title thereto in proportion to their interests in said lands: And provided further, That said city or village and said claimant or claimants, in cases of more than 1 claimant, shall have the right to a challenge in writing, to the array, for cause, and 2 peremptory challenges, besides the right of challenge to the polls for cause, and such officer shall supply the place thereof by talesmen summoned as aforesaid. Said jurors shall each be allowed 2 dollars per day for their services, and mileage as in other cases, which shall be paid by such city or village. And such justice or other officer shall receive the same fees as are allowed for like services in justice courts and for the purpose of summoning and empaneling the jury, compelling the attendance of witnesses, or during adjournment and all other proceedings necessary for successfully carrying out the foregoing provision. The officer before whom the proceedings are had shall have and exercise all the powers usually exercised by justices of the peace in the conduct and trial of suits at law: Provided however, That there shall not be more than 2 adjournments and no adjournment shall be for a period exceeding 10 days.

HISTORY: Add. 1872, p. 116, Act 64, Imd. Eff. March 30;—How. 3099;—CL 1897, 3425;—CL 1915, 3410;—CL 1929, 2430;—CL 1948, 123.120.

123.121 Acquisition of property rights; appeal procedure; bond.

Sec. 11. Either party to the proceedings who shall consider himself aggrieved by the determination of the jury as to the amount of damages so awarded, may appeal therefrom to the circuit court of the same county in the manner hereinafter provided. The party desiring to appeal, his agent or attorney, shall within 5 days after the final determination of the jury, make and file with the officer before whom the proceedings were had, an affidavit that such determination is not in accordance with the rights of the party as the deponent verily believes, and showing the interest which the party claiming an appeal has or claims to have in the premises. And the party so appealing shall, within the same time, execute and deliver to such officer a bond, with 2 or more sufficient sureties to be approved by such officer in writing indorsed on said bond, in a penalty to be fixed by such justice or other officer, and not less than 100 dollars, conditioned that the appellant shall prosecute his said appeal with all due diligence to a decision in the circuit court, and if the determination of the jury is affirmed or if the appeal is dismissed or discontinued that such appellant will pay all costs that may be adjudged against him or them by such circuit court. Within 5 days after the filing of such bond and affidavit, the officer before whom the proceedings were had shall make a duplicate of the return which he is required by this act to file with the clerk of the

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common council of the city or corporate authorities of the village, as the case may be, and attach to such duplicate the bond and affidavit, and file the same with the clerk of such circuit court; and for making and filing such duplicate, such officer shall be entitled to a fee of 3 dollars, to be paid in the first instance by the party appealing. Upon the filing of such duplicate return as aforesaid the same proceedings shall be thereupon had as in other appeal cases from justice's court. And such case shall be determined with all convenient speed, and either party may remove said cause to the supreme court as in other cases.

HISTORY: Add. 1872, p. 118, Act 64, Imd. Eff. March 30;—How. 3100;—CL 1897, 3426;—CL 1915, 3411;—CL 1929, 2431;—CL 1948, 123.121.

123.122 Return of proceedings, filing with clerk; evidence.

Sec. 12. The officer before whom the proceedings were had, shall within 10 days after the close of the proceedings before him, in case there is no appeal make a return of all such proceedings and attach thereto the report filed with him by the commission or board, and the verdict of the jury and deposit the same with the clerk of the common council of the city, or corporate authority of the village for whose benefit the proceedings were had, who shall file and preserve the same as part of the records of his office; and such return, or a certified copy of the same shall in all courts and places be conclusive evidence of the truth of the matters therein contained.

HISTORY: Add. 1872, p. 119, Act 64, Imd. Eff. March 30;—How. 3101;—CL 1897, 3427;—CL 1915, 3412;—CL 1929, 2432;—CL 1948, 123.122.

123.123 Hearing; amount awarded, provisions for payment.

Sec. 13. The common council of the city or the corporate authority of the village, as the case may be shall, immediately after the filing of such return, if no appeal is taken, and immediately after the determination of the circuit court, in cases where an appeal is taken, make provision to pay or cause to be paid to the person or persons entitled thereto, the amount awarded to him or them by the said jury or by the circuit court in cases where an appeal has been had.

HISTORY: Add. 1872, p. 120, Act 64, Imd. Eff. March 30;—How. 3102;—CL 1897, 3428;—CL 1915, 3413;—CL 1929, 2433;—CL 1948, 123.123.

123.124 Hearing; recording of copy of proceedings with register of deeds; cost.

Sec. 14. It shall be the duty of the recorder or clerk of such city or village, upon the filing of such papers and proceedings with him by said justice, in case there is no appeal, and of the clerk of the circuit court in case of an appeal, upon the final determination thereof, to make a certified copy of all the papers and proceedings filed with him, and in said cause, under the seal of said court, or under the corporate seal of said city or village, as the case may be, and deliver the same to the register of deeds of the county, who shall record the same in the record of deeds kept in his office, and who shall receive 10 cents per folio for recording the same.

HISTORY: Add. 1872, p. 120, Act 64, Imd. Eff. March 30;—How. 3103;—CL 1897, 3429;—CL 1915, 3414;—CL 1929, 2434;—CL 1948, 123.124.

123.125 Land awarded to city or village; title; right of entry; user.

Sec. 15. In all cases where the fee to such land is awarded to such city or village, the title thereto shall vest in, and become absolute to said city or village, free and clear from all incumbrances and adverse titles or claims of any kind or nature whatsoever, upon payment of the sum or sums awarded, or the tender thereof as provided in section 13 of this act. And in all cases where such fee is not awarded, then upon the payment or tender of the sum or sums awarded, as aforesaid, the said city or village and said commission or board may enter upon such land, take possession thereof, construct their works, lay pipes and repair the same and do all other acts necessary for the

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proper care and maintenance of such works so long as the same shall be used for the purposes contemplated in this act.

HISTORY: Add. 1872, p. 120, Act 64, Imd. Eff. March 30;—How. 3104;—CL 1897, 3430;—CL 1915, 3415;—CL 1929, 2435;—CL 1948, 123.125.

123.126 Construction, operation, maintenance of works; powers and rights of council; pendency of appeal.

Sec. 16. The common council of any city, or the common council or board of trustees of any village may, by ordinance, empower and authorize such commission or board to construct, operate, and maintain the necessary works contemplated in this act, and said commission or board shall have power and the right to enter upon any land for the purpose of examining and ascertaining whether the same is suitable or necessary for such purposes, and cause surveys of the same to be made, without being liable to the owners or claimants thereof for any damages occasioned thereby, and upon said land being condemned and payment or tender made as provided in section 13, the said commission or board may immediately enter upon, take possession of such lands, and commence the erection and construction of such works, lay pipes, and do any other act they may consider necessary, under the power herein conferred, or conferred upon them by such ordinance; and no appeal taken under the provisions of this act shall operate or stay their proceedings, nor shall they during the pendency of such appeal, in any manner, or by any court, be restrained from proceeding with the construction of such works, or from laying pipes: Provided, That the amount awarded to such claimant, being the appellant or appellee in such appeal case, be by said commission or board, deposited with the treasurer of such city or village payable to the order of such claimant.

HISTORY: Add. 1872, p. 120, Act 64, Imd. Eff. March 30;—How. 3105;—CL 1897, 3431;—CL 1915, 3416;—CL 1929, 2436;—CL 1948, 123.126.

123.127 Maintenance of waterworks; necessary use of highways, limitation.

Sec. 17. If in the opinion of such commission or board, it shall be advisable or necessary to use any public highway for the purpose of laying the pipes connected with such water-works, or for any other purpose necessary for the construction and maintaining of such water-works, such board or commission may at any time use such highway or any portion of the same for such purpose: Provided however, Such use shall not prevent the free use of such highway by the public.

HISTORY: Add. 1872, p. 121, Act 64, Imd. Eff. March 30;—How. 3106;—CL 1897, 3432;—CL 1915, 3417;—CL 1929, 2437;—CL 1948, 123.127.

123.128 Juror; incompetency on account of interest.

Sec. 18. No freeholder of such city, village, or township, in which or through which such water-works may be constructed or pipes laid, shall be deemed incompetent as a juror on account of his interest in the event of such proceedings: Provided, Such interest be such only as he has in common with the inhabitants of such city, village, or township.

HISTORY: Add. 1872, p. 121, Act 64, Imd. Eff. March 30;—How. 3107;—CL 1897, 3433;—CL 1915, 3418;—CL 1929, 2438;—CL 1948, 123.128.

123.129 Injury to waterworks; penalty.

Sec. 19. Any person wilfully interfering with or injuring such water-works or pipes, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not over 100 dollars, or imprisonment in the county jail not over 60 days or both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1872, p. 122, Act 64, Imd. Eff. March 30;—How. 3108;—CL 1897, 3434;—CL 1915, 3419;—CL 1929, 2439;—CL 1948, 123.129.

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123.130 Scope of act.

Sec. 20. This act as amended shall apply to all cities and villages in this state.

HISTORY: Add. 1872, p. 122, Act 64, Imd. Eff. March 30;—How. 3109;—CL 1897, 3435;—CL 1915, 3420;—CL 1929, 2440;—CL 1948, 123.130.

Act 28, 1935, p. 42; Imd. Eff. Apr. 19.

AN ACT to validate and make legal franchises heretofore voted by any city having a population not to exceed 15,000, as required by sections 24 and/or 25 of article 8 of the constitution of Michigan.

The People of the State of Michigan enact:

123.131 Public utility franchises in cities under 15,000; validation.

Sec. 1. Whenever any franchises as are required by sections 24 and/or 25 of article 8 of the constitution of the state of Michigan have heretofore been approved by the requisite majority of the qualified voters of any city having a population not to exceed 15,000 according to the last federal census, as fixed by the several enabling acts under which the election was held, the said franchises as so approved by the voters are hereby confirmed and validated and declared to be legal and binding franchises of the city if, as and when so approved by the voters, notwithstanding said franchises fail to fix rates and/or charges to be made by the grantee in said franchises, and notwithstanding said franchises delegate to the city council and/or the grantee in said franchises the power to agree upon rates and/or charges, and notwithstanding said franchises provide that if rates and/or charges cannot be agreed upon between said city and the grantee in said franchise, said rates and/or charges may be fixed by the Michigan public utilities commission, or its successors, from time to time upon the application of either party to said franchise after due hearing thereon, and notwithstanding said franchises may be invalid as to any matter of substance or form.

HISTORY: CL 1948, 123.131.

123.132 Immediate necessity of act.

Sec. 2. It is hereby declared that this act is immediately necessary for the protection of the public health and safety.

HISTORY: CL 1948, 123.132.

Act 34, 1917, p. 59; Imd. Eff. Apr. 5.

AN ACT to authorize municipal corporations having authority by law to furnish water outside their territorial limits, to sell water to other municipal corporations and contract regarding such sale; to contract with individuals, firms, or corporations regarding the construction of water mains, and the sale of water in such outside territory; to construct water mains through the highways outside their territorial limits, with the consent of the proper local authorities; to furnish water to individual consumers, fix rates thereof, and enforce collection thereof.

The People of the State of Michigan enact:

123.141 Sale of water; authority to contract with cities, villages or townships; rates.

Sec. 1. Municipal corporations having authority by law to sell water outside their territorial limits, hereinafter referred to as corporations, may contract for such sale with cities, villages or townships having authority to provide a water supply for their

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inhabitants, but the price charged shall not be less than nor more than double that paid by consumers within their own territory. The price charged may be more than double that paid by consumers within their own territory if the water is delivered to a city, village or township lying outside the county within which the corporations are situated, and lying more than 10 miles beyond the territorial limits of the corporations. Any price charged that is more than double shall bear a reasonable relationship to the service rendered.

HISTORY: CL 1929, 2445;—CL 1948, 123.141;—Am. 1957, p. 58, Act 53, Imd. Eff. May 17.

123.142 Sale of water; authority to contract with persons; construction of mains, payment.

Sec. 2. Such corporations may contract with persons, natural or artificial, for the furnishing of water in townships, villages and cities and may construct and maintain water mains through the public highways thereof, with the consent of the proper local authorities having jurisdiction over such highways. Such mains shall in all cases be the property of the corporation. Such contracts may specify such terms of payment for such mains as shall be just and equitable in the judgment of the corporation, and may in its discretion provide for a rebate of a just proportion of the cost thereof to the persons originally paying the same, whenever additional connections are made and additional service rendered therefrom.

HISTORY: CL 1929, 2446;—CL 1948, 123.142.

123.143 Sale of water; purchasers not city or village; rights and powers.

Sec. 3. Where water is sold to purchasers other than cities and villages in such outside territory, such corporations shall exercise all the powers and have all the rights and remedies in connection with such water system in such outside territory, the sale, and delivery of water therefrom, the fixing of water rates and the collection thereof, and all other matters incident to its operation which they possess by law within their own territorial limits.

HISTORY: CL 1929, 2447;—CL 1948, 123.143.

123.144 Water service in outside territories; enforcement, prerequisites.

Sec. 4. No contract relating to water service in such outside territory except in cases provided for in section 1 hereof, shall be enforceable against such corporation until the consent of the proper local authorities to the construction and maintenance of water mains in the highways of such territory has been obtained, and the burden of securing such consent shall not be upon such corporation.

HISTORY: CL 1929, 2448;—CL 1948, 123.144.

Act 130, 1945, p. 135; Imd. Eff. Apr. 27.

AN ACT to authorize cities to extend and improve their municipally owned water systems through the acquisition and operation of a joint source of water supply, to finance the cost thereof through the issuance of water revenue bonds; providing for methods for the operation of such joint source of water; authorizing the purchase and condemnation of necessary property; and providing the procedure for such acquisition and financing.

The People of the State of Michigan enact:

123.151 Water supply; joint source; bonds; agreements; expense.

Sec. 1. Whenever 2 or more cities in Michigan determine to extend and improve their municipally owned water systems through the acquisition of an additional source of water supply consisting of a water supply line from one of the great lakes, bays

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thereof, and connecting waters between, together with related pumping station or stations, intake, meters, valves, rights of way, real estate and appurtenant apparatus and equipment (all of which are hereinafter referred to as the "source of supply"), such cities may jointly acquire, own and operate such source of supply, or any part thereof, and each such city may finance all or part of its agreed share of the cost thereof through the issuance of its water revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as such act now exists or may hereafter be amended. The governing bodies of such cities are hereby empowered to enter into such agreements for the acquisition, operation, control, management and improvement of such source of supply (any which agreement may run for a term of years) as they may in their discretion see fit, including, but without limitation, agreements with each other, with water customers and with any board, agency or commission in which may be imposed the operation of the source of supply. Such agreements may provide for and fix the membership, powers and duties of a joint board, agency or commission to operate the source of supply, in which event the governing bodies may delegate to such board, agency or commission such of their powers with respect to the operation of the source of supply as they may see fit. Such board, agency or commission is empowered to enter into such agreements with said cities and with water consumers, including other cities, villages and public corporations, for the sale of water thereto and with respect to the operation of the source of supply, as may be consistent with the provisions of the agreements creating such board, agency or commission and as it may consider advantageous. The expense of the operation, maintenance, management, control and improvement of the source of supply may be paid either through the sale of water by the operating board to the cities and other customers, or by contributions to be made by the respective cities, or both, all as may be provided in the agreements between the cities, as originally entered into or as modified and supplemented from time to time.

HISTORY: CL 1948, 123.151.

NOTE: Act 94 of 1933, above referred to, is Compilers' §§ 141.101-141.136.

123.152 Joint source; cities having outstanding water revenue bonds.

Sec. 2. If any city issuing bonds hereunder shall then have outstanding other water revenue bonds which constitute a prior lien on the revenues of the city's water system, bonds may be issued hereunder in such manner as to be subordinate to the outstanding bonds.

HISTORY: CL 1948, 123.152.

123.153 Joint source cities; acquisition of property; construction contracts.

Sec. 3. Such cities shall have authority in their joint names to purchase and condemn property necessary for such source of supply, and for such purpose may bring proceedings under Act No. 149 of the Public Acts of 1911, as amended, or under any other general law of the state applicable to the condemnation of property for city purposes. Contracts for the construction of such source of supply may either be entered into individually by such cities, or in whole or in part by joint contract or contracts to which all or any of the cities are parties.

HISTORY: CL 1948, 125.153.

NOTE: Act 149 of 1911, above referred to, is Compilers' §§ 213.21-213.41.

123.154 Sale or delivery outside of corporate limits.

Sec. 4. Any city taking advantage of the provisions of this act may sell and deliver water outside of its corporate limits in such amount as may be determined by its legislative body, as provided by section 23, article VIII of the constitution of Michigan, as amended in 1944.

HISTORY: CL 1948, 123.154.

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123.155 Source acquired; contracts entered; limitations and procedural requirements removed.

Sec. 5. Cities may acquire a source of water supply under this act and may enter into contracts therefor and agreements with respect thereto and may issue their revenue bonds as provided herein, without regard to any limitations or procedural requirements which may be contained in any other laws (except Act No. 94 of the Public Acts of 1933) or in the charters of said cities. Except as herein expressly otherwise provided, the provisions of said Act No. 94 of the Public Acts of 1933, as now existing or hereafter amended, shall be applicable in all respects to the issuance of the revenue bonds and the rights and remedies of the holders thereof, and except as therein provided, no election need be held as a condition to the carrying out of any of the powers herein granted.

HISTORY: CL 1948, 123.155.

NOTE: Act 94 of 1933, above referred to, is Compilers' §§ 141.101-141.136.

Sec. 6. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Act 178, 1939, p. 342; Imd. Eff. Jun. 8.

AN ACT to provide for the collection of water rates, assessments, charges or rentals for water, and to provide a lien for water furnished by municipalities as herein defined.

The People of the State of Michigan enact:

123.161 Municipal water lien; definitions.

Sec. 1. (a) The word "municipality" as used in this act is hereby defined to be any county, city, township, village or metropolitan district.

(b) The word "person" as used in this act is hereby defined to be any person, firm, partnership, or copartnership or corporation which is the owner or occupant of any house or other building or any premises, lot or lots, or parcel or parcels of land.

HISTORY: CL 1948, 123.161.

123.162 Municipal water lien; creation; accrual.

Sec. 2. Any municipality which has heretofore or may hereafter operate a water distribution system, for the purpose of supplying water to the inhabitants thereof, shall have as security for the collection of any water rates, or any assessments, charges or rentals due or to become due for the use or consumption of water supplied to any house or other building or any premises, lot or lots, or parcel or parcels of land, a lien upon such house or other building and upon the premises or lot, or lots, or parcel or parcels upon which such house or other building shall be situated or to which such water was supplied. Such lien shall become effective immediately upon the distribution of the water to the premises or property supplied as aforesaid but shall not be enforceable for more than 3 years thereafter.

HISTORY: CL 1948, 123.162.

123.163 Municipal water lien; enforcement; inapplicable in absence of ordinance.

Sec. 3. The lien created herein may be enforced by any such municipality in the manner prescribed in the charter of any such municipality, by the general laws of the state providing for the enforcement of tax liens or by ordinance duly passed by the governing body of the municipality. The provisions of this act shall apply only to municipalities in which a lien on real property for water assessments is now or shall here-

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after be provided for by ordinance in accordance with the charter provisions of such municipality.

HISTORY: CL 1948, 123.163.

123.164 Municipal water lien; notice constituted by records.

Sec. 4. The official records of the proper officer, board, commission or department of any such municipality having charge of the water distribution system shall constitute notice of the pendency of said lien.

HISTORY: CL 1948, 123.164.

123.165 Municipal water lien; priority; affidavit, notice of termination of lease.

Sec. 5. The lien hereinbefore created shall from and after the passage of this act have priority over all other liens except taxes or special assessments whether or not such other liens accrued or were recorded prior to the accrual of the water lien herein created: Provided, however, That the provisions of this act shall not apply in any instance where a lease has been legally executed, containing a provision that the lessor shall not be liable for payment of water bills as to any such bills accruing subsequent to the filing of the affidavit hereinafter provided for: Provided further, That an affidavit with respect to the execution of such a lease containing the expiration thereof shall be filed with the board, commission or other official in charge of the water works system, and 20 days' notice shall be given by the lessor of any cancellation, change in or termination of the lease.

HISTORY: CL 1948, 123.165.

123.166 Discontinuance of water service; institution of suit; effect as to lien.

Sec. 6. Any municipality may discontinue water service from the premises against which the above lien has accrued whenever any person shall fail to pay the rates, assessments, charges or rentals herein referred to, or may institute suit for the collection of the same in any court of competent jurisdiction, but no attempt to collect such water rates, assessments, charges or rentals by any process, shall in any way invalidate or waive the lien, upon the premises.

HISTORY: CL 1948, 123.166.

123.167 Construction of act.

Sec. 7. This act shall not repeal any existing statutory charter or ordinance provisions providing for the assessment or collection of water rates, assessments, charges or rentals by any municipality, but shall be construed as an additional grant of power to any now prescribed by other statutory charter or ordinance provisions, or as a validating act to validate existing statutory or charter provisions creating liens herein provided for.

HISTORY: CL 1948, 123.167.

Sec. 8. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Act 285, 1915, p. 500; Eff. Aug. 24.

AN ACT to provide for the establishment of public closets, commonly known and designated as public convenience stations, in all incorporated villages and cities of this state, and in certain unincorporated villages therein.

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The People of the State of Michigan enact:

123.171 Convenience stations; construction, maintenance.

Sec. 1. It shall be the duty of the common council of any city in this state, and of the board of trustees of any incorporated village, to cause to be constructed and maintained in such village or city not less than 1 public closet, commonly known and designated as a public convenience station, in such place or places as directed by the local board of health. Such closets or public convenience stations shall have thereon the proper signs and be so placed as directed by the local board of health as to be easily accessible from the business district or districts of such city or village, and shall be maintained in a sanitary manner under the supervision of the local board of health. Suitable and adequate accommodations shall be afforded at such public convenience station, to the members of both sexes.

HISTORY: CL 1915, 3302;—CL 1929, 2464;—CL 1948, 123.171.

123.172 Convenience stations; despoiling, penalty.

Sec. 2. Any person destroying, mutilating, injuring, despoiling or abusing the property of any part thereof included within a public convenience station as provided for in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than 50 dollars, or imprisonment in the county jail for a period of not more than 60 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 3303;—CL 1929, 2465;—CL 1948, 123.172.

Act 23, 1882 (Ex. Ses.), p. 54; Eff. Jun. 13.

AN ACT to authorize cities and villages to construct, enlarge, and maintain sewers, as public improvements, in private property, and to repeal all laws in conflict with the provisions of this act.

The People of the State of Michigan enact:

123.181 Sewers in private property; acquisition of property rights.

Sec. 1. That the common council of any city and the board of trustees of any village in this state are hereby authorized to construct, enlarge and maintain sewers, hereby declared to be public improvements, in private property; and may enter, by committee and by agents and servants, into and upon private property where it is proposed to construct a sewer, and make necessary examinations and surveys, the better to enable them to determine the necessity for using such private property for a sewer and to locate the same, and for any such entry no action shall be maintainable. But the common council or board of trustees before constructing a sewer in private property shall acquire the right to take and use the property for such purpose, by agreement or purchase, or by proceedings in the proper court in behalf of the municipality, in the manner provided by law in that behalf. All laws in conflict with the provisions of this act are hereby repealed.

HISTORY: How. 3109a;—CL 1897, 3436;—CL 1915, 3425;—CL 1929, 2463;—CL 1948, 123.181.

Act 151, 1961, p. 216; Eff. Sep. 8.

AN ACT to protect the health, safety and welfare of the people in counties by requiring properties from which sanitary sewage emanates to be connected to available public sanitary sewage collection facilities; to define properties affected by the act; to establish remedies and to fix penalties for the violation thereof. Am. 1970, p. 554, Act 191, Imd. Eff. Aug. 6.

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The People of the State of Michigan enact:

123.191 Sanitary sewage collection facility; definitions.

Sec. 1. As used in this act:

(a) "Public sanitary sewage collection facility" means any sanitary sewer or combined sanitary and storm sewer used or useful in connection with the collection and transportation of sanitary sewage for treatment or disposal and owned or operated by a county, township, charter township, or any agency, department or division thereof, or by any authority or metropolitan district.

(b) "Available public sanitary sewage collection facility" as applied to a particular property from which sanitary sewage emanates means such a facility located in a right of way, easement, highway, street or public way which crosses, adjoins or abuts upon the property and which right of way, easement, highway, street or public way passes not more than 200 feet distant from a structure on such property from which sanitary sewage emanates.

(c) "Property from which sanitary sewage emanates" means each parcel of land, as described in the last recorded deed of conveyance pertaining thereto, on which is located a structure or structures in which water is used or is available for use for household, commercial, industrial or other purposes. Industrial structures with a sanitary sewage disposal system approved by the state department of health shall be exempt from the provisions of this act.

HISTORY: New 1961, p. 216, Act 151, Eff. Sep. 8.

123.192 Connection, time for completion.

Sec. 2. (1) In any county, property from which sanitary sewage emanates shall be connected to an available public sanitary sewage collection facility. The connection shall be completed within 18 months after the date of occurrence of the last of the following events:

(a) Availability of the public sanitary sewage collection facility.

(b) Improvement of the property so as to become property from which sanitary sewage emanates.

(c) This act becomes effective.

(2) A local unit of government, for reasons of public health, by ordinance may require completion of the connection within a shorter period of time but not less than 6 months shall be allowed after occurrence of the events set forth in subsection (1).

HISTORY: New 1961, p. 216, Act 151, Eff. Sep. 8;—Am. 1970, p. 554, Act 191, Imd. Eff. Aug. 6.

123.193 Demand for connection, posting, contents.

Sec. 3. When any property has not been connected to an available public sanitary sewage collection facility within the 18 months period provided in this act, or a shorter period provided by ordinance under the provisions of section 2, the owner or operator of the facility shall require the connection to be made forthwith by a written demand mailed by first class mail, postage paid, to the owner of the property, according to the last recorded deed of conveyance pertaining thereto, at the address of the property, and posted beside an entrance to a building on the property. The demand shall give the approximate location of the public sanitary sewage disposal collection facility which is available for connection of the property involved and shall advise the owner and occupant of the property of the requirements and of the enforcement provisions of this act.

HISTORY: New 1961, p. 216, Act 151, Eff. Sep. 8;—Am. 1970, p. 554, Act 191, Imd. Eff. Aug. 6.

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123.194 Sanitary sewage collection; connection by facility operator, penalty, costs, collection.

Sec. 4. Any property from which sanitary sewage emanates which is not connected to an available public sanitary sewage collection facility within 90 days after the date of mailing or posting of the written demand, whichever occurs later, is hereby declared to be a threat to the health, safety and welfare of the people and a public nuisance and the owner or operator of the facility may forthwith enter upon or in the property and install, construct and make such connections to abate the nuisance and to serve the property as are necessary or desirable, in the sole discretion of the owner or operator, and as are in accordance with the statutes, charter provisions, ordinances, rules or regulations applicable to the facility. The owner and occupant of any property who fails or refuses to connect the property to an available public sanitary sewage collection facility upon written demand shall forfeit a sum not exceeding $100.00 and shall be liable to the owner or operator of the facility for the costs incurred in making the connection to the facility which sum and which costs and sum shall be recoverable, jointly and severally from the owner and occupant, in an action at law or may be assessed against such property and shall be collected and treated in the same manner as taxes under the general laws of the state or under a law of the state or a charter provision or ordinance pertaining to the assessment and collection of taxes by the particular owner or operator of the public sanitary sewage collection facility to which connection has been made.

HISTORY: New 1961, p. 216, Act 151, Eff. Sep. 8.

123.195 Sanitary sewage collection; enforced connection.

Sec. 5. Whenever the owner or operator of any public sanitary sewage collection facility deems it necessary, as evidenced by appropriate resolution, ordinance or order of the governing body charged with operation of the facility, for the preservation of the health, safety and welfare of the people to enter upon or in any property to ascertain if it is property from which sanitary sewage emanates or to install, construct and make connection of the property to the facility, and is refused such entry, the owner or operator shall make complaint in writing, under oath, to any justice of the peace or municipal judge or court of the county, stating the facts of the case so far as may be known to the complainant. The justice, judge or court may issue a warrant directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by a representative of the owner or operator of such facility, between the hours of sunrise and sunset, to enter upon or in the property to the extent and for the duration required to enforce and carry out the provisions of this act.

HISTORY: New 1961, p. 217, Act 151, Eff. Sep. 8.

Act 316, 1931, p. 523; Eff. Sep. 18.

AN ACT to authorize cities and villages to construct, own, equip, operate, maintain and improve works for the disposal of sewage; to authorize charges against owners of premises for the use of such works and to provide for the collection of the same; to authorize cities and villages to issue revenue bonds payable solely from the revenues of such works; and to make such bonds exempt from taxation and to make them lawful investments of sinking funds; to authorize contracts for the use of such works by private corporations and by other cities and villages and political subdivisions and charges against owners of premises therein served thereby. Am. 1943, p. 11, Act 10, Imd. Eff. Feb. 25.

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The People of the State of Michigan enact:

123.201 Sewage disposal plants; construction by cities and villages.

Sec. 1. Construction of sewage disposal plants. Every city and village in the state of Michigan is hereby authorized to construct, own, equip, operate, maintain and improve, either within or without the corporate limits of such municipality, works for the treatment, purification and disposal in a sanitary manner, approved by the state department of health, of the sewage of such municipality, together with intercepting sewers, connecting trunk lines, force mains and necessary appurtenances and pumping stations and to acquire any and all other property deemed necessary or proper for the construction, operation and maintenance thereof, and to issue revenue bonds to pay the cost of such works and property which shall be payable solely from the revenue of such works as hereinafter provided. The aggregate face amount of such revenue bonds shall not exceed 3 1/2 per cent of the assessed valuation of property in the municipality as last fixed for taxation prior to the issuance of such bonds. Every such city and village, by its legislative body, shall have power to acquire by purchase upon such terms and conditions and in such manner as the legislative body of the municipality may deem proper, and/or to acquire by condemnation in accordance with and subject to the provisions of any and all existing laws applicable to the condemnation of property for public use by such municipality, any land, rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of such works. Title to the property condemned shall be taken in the name of the municipality. The municipality shall be under no obligation to accept and pay for any property condemned under this act except from the funds provided by this act, and in any proceedings to condemn such orders may be made by the court having jurisdiction of the suit, action or proceeding as may be just to the municipality and to the owners of the property to be condemned.

HISTORY: CL 1948, 123.201.

COMPILERS' NOTE: The catchlines following the act section numbers of this act were incorporated as part of the act as enacted.

123.201a Sewage disposal; contract between two cities or villages bordering different states.

Sec. 1a. Whenever the territory of any city or village of this state shall be adjacent to or border on the territory of any other state, such city or village shall have power to build or construct a sewage disposal plant in such adjacent state, either alone for its sole use or jointly with some city, village or municipality in such adjacent state for their joint use on terms to be agreed upon by such municipalities. If either city, village or municipality shall build or construct a sewage disposal plant, the city or village in this state may contract with the other city, village or municipality for its joint use on terms to be agreed upon.

HISTORY: Add. 1949, p. 206, Act 192, Imd. Eff. May 27.

123.202 Ordinance required.

Sec. 2. Ordinance required. Before constructing any works under this act, the legislative body of the municipality shall adopt an ordinance which shall (a) set forth a brief and general description of the works and a reference to the plans and specifications which shall theretofore have been prepared and filed with the clerk of the municipality by an engineer chosen by the legislative body and which shall have been approved by the state department of health; (b) set forth the cost thereof estimated by an engineer chosen by the legislative body thereof which estimate shall be approved by the state department of health; (c) set forth the period of usefulness of the works as estimated by the state department of health, which department is hereby authorized and directed to make such estimate upon application therefor by any officer of the city or village; (d) order the construction of such works and the acquisition of all prop-

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erty deemed necessary or proper for the construction, operation and maintenance thereof; and (e) direct that revenue bonds of the municipality shall be issued pursuant to this act in such an amount as may be found necessary to pay the cost of the works, but not exceeding a maximum sum to be stated in said ordinance. Such ordinance shall not become effective until approved by a 3/5 vote of the qualified electors of such municipality voting thereon at a regular or special election. The legislative body of such municipality shall fix the date for the holding of such election, and shall publish such ordinance in at least 1 or more newspapers published in such municipality and, if no newspaper is published within the municipality, in a newspaper published in the county and circulated within the municipality, at least once, not less than 2 weeks preceding said election. Notice of the date of such election and the purpose thereof shall be given in the manner provided by the general election laws of the state. The ballots upon which said question shall be submitted shall be substantially in the following form:

"Shall the ordinance providing for a sewage disposal system, (rates to be established by the legislative body) as passed by the ..... of the (city) or (village) of ..... at a cost not exceeding $..... to be paid out of the revenues of said system be adopted?

☐ Yes
☐ No".

If upon canvass of the votes cast at such election it shall appear that 3/5 of those voting are in favor of adopting the ordinance, then and thereafter such ordinance shall be in full force and effect in such municipality. If it shall appear that 3/5 of those voting at such election are not in favor of adopting such ordinance, the same question shall not be submitted within 2 years. In all elections held under this act the manner of preparing and distributing the ballots, the manner of conducting, canvassing, returning and declaring the results shall be the same as prescribed by law for other elections in such municipality.

HISTORY: CL 1948, 123.202.

123.203 Control of sewage disposal works.

Sec. 3. Control of works. The construction, improvement, equipment, operation and maintenance of the works shall be under the supervision and control of the legislative body of the municipality, unless otherwise provided by its charter.

HISTORY: CL 1948, 123.203.

123.204 Powers of city or village; expenses; restoration of public or private property.

Sec. 4. Powers. Any city or village, by its constituted authorities, shall have power to make and enter into all contracts or agreements necessary or incidental to the execution of its powers under this act, and may employ engineering, architectural and construction experts and inspectors and attorneys, and such other employes as may be deemed necessary, and may fix their compensation. All such compensation and all expenses incurred in carrying out the provisions of this act shall be paid solely from funds provided under the authority of this act, and no liability or obligation shall be incurred hereunder after the approval of such ordinance by the electors, beyond the extent to which money shall have been provided under the authority of this act. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of 1,000 dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power to reject any or all bids. After the construction and installation of the works, the

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city or village shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that may be deemed expedient, if funds therefor be available or made available as provided in this act, and shall establish rules and regulations for the use and operation of the works and do all things necessary and expedient for the successful operation thereof. All public or private property damaged or destroyed in carrying out the powers granted under this act shall be restored or repaired and placed in their original condition, as nearly as practicable, or adequate compensation made therefor, out of funds provided by this act.

HISTORY: CL 1948, 123.204.

123.205 Cost of sewage disposal works.

Sec. 5. What included in cost of works. The cost of the works as defined in section 1 shall be deemed to include the cost of all property, rights, easements and franchises deemed necessary or convenient therefor, interest upon bonds prior to and during construction and for 6 months after completion of construction, engineering and legal expenses, estimates of cost and of revenues, plans, specifications and surveys, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized and the construction of the works and the acquisition of all property deemed necessary or proper for the construction, operation and maintenance thereof and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof.

HISTORY: CL 1948, 123.205.

123.206 Revenue bonds; payment of cost.

Sec. 6. Revenue bonds. Funds for the payment of the cost of the works may be provided by the issuance of revenue bonds of the municipality, the principal and interest of which bonds shall be payable solely from the special fund herein provided for such payment. All the details of such bonds shall be determined by said ordinance or by a subsequent resolution or resolutions to be passed by the legislative body.

HISTORY: CL 1948, 123.206.

123.207 Revenue bonds; details.

Sec. 7. Details of revenue bonds. Such revenue bonds shall bear interest at not more than 6 per cent per annum, payable annually or at shorter intervals, and shall mature as may be determined by the legislative body: Provided, however, That if all such bonds shall mature at 1 time, they shall mature on a date not more than 1 year prior to nor more than 1 year after the expiration of the period of usefulness of the works but not to exceed 30 years as so estimated by the state department of health, such period of usefulness to commence at the probable date of beginning the operation of the works, as estimated by the legislative body: Provided further, That if all the bonds shall not mature at 1 time they shall mature in annual series beginning not more than 2 years from such probable date of beginning of operation and ending as provided hereinabove for the maturity of bonds maturing at 1 time, and the sum of the interest and principal to fall due in each year shall be as nearly equal as is practicable. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of 3 per cent under such terms and conditions as may be fixed by the legislative body prior to the issuance of the bonds. The legislative body shall determine the form of the bonds, and the method of execution thereof and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the state. The bonds shall contain a statement on their face that the municipality shall not be obligated to

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pay the same or the interest thereon except from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the negotiable instruments law of the state. Said bonds shall be exempt from all taxation, state, county and municipal, and unless otherwise provided by law, shall be lawful investments of sinking funds of the state and municipalities and political subdivisions thereof. Said bonds may be issued beyond the general limits of the bonded indebtedness prescribed by law, and shall not be included in the amount of bonds which the city or village may be authorized to issue under any statute or charter. Provision may be made for the registration of any of the bonds in the name of the owner as to principal alone. The legislative body may sell the bonds in such manner as it may determine to be for the best interests of the municipality, but not at a price so low as to require the municipality to pay more than 6 per cent interest on the amount received therefor, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values: Provided, That before any bonds shall be sold a notice shall be published in the same newspaper and for the same length of time provided by section 7 of Act 273, Public Acts of 1925, Compiled Laws of 1929, for advertising sale of bonds, such notice to be in substantially the following form:

"On or before ..... 19.... the city (or village) of ..... will receive proposals for financing the construction of a sewage disposal plant costing approximately $..... to be paid from the revenues of said plant. The financing of such plant will be awarded to the bidder presenting the plan which appears to the legislative body to be to the best interest of the municipality.

If no bids satisfactory to the legislative body are received, the bonds may thereafter be sold at private sale. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance or in a resolution passed prior to the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment from the same fund, without preference or priority of the bonds first issued. No such bonds shall be issued unless the necessity and amount thereof shall be approved by the state department of health. Prior to the preparation of the definitive bonds the legislative body may under like restrictions issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. No such bonds shall be issued unless authorized by a 3/5 vote of the electors voting thereon at an election called and held in the manner hereinbefore set forth.

HISTORY: CL 1948, 123.207.

NOTE: Act 273 of 1925, above referred to, has been repealed and superseded by Act 202, 1943. See Compilers' § 131.1 et seq.

123.208 Revenue bonds; additional bonds of same standing issued.

Sec. 8. Additional bonds of a same standing. The legislative body may provide, by said ordinance or by resolution passed before the issuance of the bonds, or in the trust indenture hereinafter referred to, that additional bonds not exceeding 33 1/3 per cent of the face amount of the bonds which shall be issued to pay the cost of the works may thereafter be authorized and issued, at 1 time or from time to time, under such limitations and restrictions as may be set forth in said ordinance or such resolution or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any 1 bond and any other bond by reason of priority of issuance or otherwise. No such bonds shall be issued unless authorized by a 3/5 vote of the electors voting thereon at an election called and held in the manner hereinbefore set forth. No such additional bonds shall mature be-

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fore the maturity of the bonds theretofore issued: Provided, however, That if the bonds theretofore issued mature at different dates, a substantially proportionate amount of the additional bonds may fall due on the same or subsequent dates. It shall be lawful to provide in said ordinance or resolution or indenture that no additional bonds shall be issued without the consent of the purchasers of the bonds first issued or their successors, assigns or nominees.

HISTORY: CL 1948, 123.206.

123.209 Lien upon bond proceeds.

Sec. 9. Lien upon bond proceeds. All moneys received from any bonds issued pursuant to this act shall be applied solely to the payment of the cost of the works or to the sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustee hereinafter provided for.

HISTORY: CL 1948, 123.209.

123.210 Bonds; terms, conditions, covenants and trust indenture.

Sec. 10. Terms, conditions, covenants and trust indenture. In the discretion of the legislative body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, but no such trust indenture shall convey or mortgage the works or any part thereof. Either the ordinance authorizing the revenue bonds or resolution fixing the details thereof or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality in relation to the construction of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the municipality and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require that the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this act otherwise provided, the legislative body may provide by ordinance, resolution or such indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine.

HISTORY: CL 1948, 123.210.

123.211 Application of revenues.

Sec. 11. Application of revenues. At or before the issuance of any such bonds the legislative body shall by said ordinance or by resolution create a sinking fund for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid into said sinking fund at intervals to be determined by the legislative body prior to the issuance of the bonds, for (a) the interest upon such bonds as such interest shall fall due and (b) the

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necessary fiscal agency charges for paying bonds and interest and (c) the payment of the bonds as they fall due or, if all bonds mature at 1 time, the proper maintenance of a sinking fund sufficient for the payment thereof at such time, and (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal 10 per cent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenues of the works. The legislative body may, at any time authorize such sinking fund or any part thereof to be used in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into the sinking fund as herein required the legislative body may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed sufficient for operation, repair and maintenance for an ensuing period of not less than 12 months, into the sinking fund or into a fund for extensions, betterments and additions to the works.

HISTORY: CL 1948, 123.211.

123.212 Rates or charges; assumpsit.

Sec. 12. Revenues of the works. The legislative body shall establish just and equitable rates or charges, subject to the laws of the state, for the use of and the service rendered by said works, to be paid by the owner of each lot or parcel of land that is connected with and uses such works by or through any part of the sewerage system of the city or village, and may change and readjust such rates or charges from time to time: Provided, however, That such rates or charges shall be sufficient in any year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have opportunity to be heard concerning the proposed rates or charges. After the preliminary schedule fixing and classifying such rates or charges shall be prepared, and before the same is finally adopted, notice of such hearing, setting forth the proposed schedule of rates or charges, shall be given by 1 publication in a newspaper published in the municipality if there be such a newspaper, but otherwise in a newspaper having general circulation therein, at least 10 days before the date fixed in such notice for the hearing, which may be adjourned from time to time. After such hearing such preliminary schedule, either as originally formulated or as modified or amended, shall be adopted and put into effect. A copy of the schedule of such rates or charges so established shall be kept on file in the office of the clerk of the municipality and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinabove provided: Provided, however, That if such change or readjustment be made substantially pro rata as to all classes of service no hearing or notice shall be required. If the service charge so established shall not be paid when due, the amount thereof may be recovered by the municipality in an action of assumpsit or the amount of said charge may be certified to the tax assessor and assessed against the lot or parcel of land upon which is situate the premises served and collected or returned in the same manner as municipal taxes against real estate are

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certified, assessed, collected and returned, and shall be a lien upon such lot or parcel of land coordinate with the lien of such municipal taxes from the time of certification to the tax assessor.

HISTORY: CL 1948, 123.212.

123.213 Municipality liable to payment of charges.

Sec. 13. The municipality liable to payment of charges. The municipality shall be subject to the charges and rates established as hereinabove provided, for services rendered the municipality, and shall pay such rates or charges when due and the same shall be deemed to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of such revenues.

HISTORY: CL 1948, 123.213.

123.214 Services to other municipalities and political subdivisions and to private corporations.

Sec. 14. Services to other municipalities and political subdivisions, and to private corporations. Any municipality operating or proposing to operate sewage disposal works under this act (in this section called the owner) is hereby authorized to contract with 1 or more other cities, villages or political subdivisions within the state, and with profit and non-profit corporations (in this section called the lessee), and such lessees are hereby authorized to enter into such contracts with such owners, for the use of such works by such lessees and their inhabitants, but only to the extent of the capacity of the work without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the contracting parties: Provided, however, That no such contract shall be made in violation of the provisions of any ordinance or of any resolution authorizing bonds hereunder or in violation of the provisions of said trust indenture. The legislative body of the lessee, in case of a city, village or political subdivision, shall have power to establish, change and adjust rates and charges for the service rendered therein by the works against the owners of premises served in the manner and subject to the conditions hereinabove provided for establishing, changing and adjusting rates and charges for the service rendered in the municipality by which the works are constructed, except that the aggregate of such rates or charges shall be sufficient to pay the rental price to be paid by the lessee and any proper incidental expense, and such rates or charges shall be collectible and shall be a lien as herein provided for rates and charges made by the owner. The necessary connecting trunk lines and appurtenant works for connecting the works of the owner with the sewage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this act unless otherwise provided by said ordinance, resolution or trust indenture prior to the issuance of the bonds. The income received by the owner under any such contract shall, unless otherwise provided in said ordinance, resolution or trust indenture, be deemed to be a part of the revenues of the works as in this act defined and be applied as herein provided for the application of such revenues.

HISTORY: Am. 1943, p. 11, Act 10, Imd. Eff. Feb. 25;—CL 1948, 123.214.

123.215 Acquisition of encumbered property.

Sec. 15. Acquisition of encumbered property. No property shall be acquired under this act upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money be deposited in trust to pay and redeem such lien or encumbrance in full.

HISTORY: CL 1948, 123.215.

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123.216 Additional bonds constituting a junior charge.

Sec. 16. Additional bonds constituting a junior charge. Nothing herein contained shall prevent the issue of additional bonds from time to time, and such bonds are hereby authorized to be issued in accordance with this act: Provided, however, That all bonds thereof shall be authorized by a vote of 3/5 of the electors voting thereon at an election called and held in the manner hereinbefore set forth, and shall be subordinated to bonds authorized for the construction of the works pursuant to section 6 hereof in respect to the application of revenues to such additional issues, except as otherwise provided by section 8 hereof.

HISTORY: CL 1948, 123.216.

123.217 Action by trustee and bondholders.

Sec. 17. Action by trustee and bondholders. Any holder of any of such bonds or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance or by resolution passed before the issuance of the bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance, resolution or trust indenture and may enforce and compel performance of all duties required by this act or by such ordinance, resolution or trust indenture to be performed by the municipality issuing the bonds or any board or officer thereof, including the making and collecting of reasonable and sufficient charges and rates for services rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as restricted by said ordinance, resolution or trust indenture, with power to charge and collect rates sufficient to provide for the payment of the expenses of maintenance, operation and repair and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this act and the said ordinance, resolution and/or trust indenture.

HISTORY: CL 1948, 123.217.

123.218 Authority in addition and not in derogation of other powers.

Sec. 18. Authority in addition and not in derogation of other powers. The authority hereby given shall be in addition to and not in derogation of any power existing in any city or village under any statutory or charter provisions which it may now have or hereafter adopt.

HISTORY: CL 1948, 123.218.

123.219 No additional proceedings required.

Sec. 19. No additional proceedings required. This act shall, without reference to any other statute or to any charter, be deemed full authority for the construction, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this act authorized, and shall be constructed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect of the issuance or sale of bonds under this act and no publication of any resolution, ordinance, notice or proceeding relative to the issuance or sale of such bonds shall be required except such as are prescribed by this act, any provisions of the general laws of the state or of any charter to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the department of health, the department of conservation and the stream control commission of the state shall remain unaffected by this act.

HISTORY: CL 1948, 123.219.

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123.220 Liberal construction of act.

Sec. 20. Liberal construction. This act being necessary for the public health, safety and welfare, it should be liberally construed to effectuate the purposes thereof.

HISTORY: CL 1948, 123.220.

Sec. 21. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 129, 1943, p. 166; Imd. Eff. Apr. 13.

AN ACT to provide for contracts between political subdivisions relative to systems of sewers and sewage disposal, and to validate existing contracts of such nature; to authorize the issue of joint revenue bonds to construct, acquire, extend or improve such systems and to regulate the use of the revenues thereof. Am. 1945, p. 198, Act 137, Imd. Eff. May 4.

The People of the State of Michigan enact:

123.231 Definitions.

Sec. 1. The term "political subdivision" as herein used shall be deemed to mean any county, metropolitan district, city, village or township in this state.

HISTORY: Am. 1945, p. 198, Act 137, Imd. Eff. May 4;—CL 1948, 123.231.

CITED IN OTHER SECTIONS: Sections 123.231 to 123.235 are cited in § 280.430.

123.232 Sewers and sewage disposal; joint contracts.

Sec. 2. Any 2 or more political subdivisions may contract for the joint ownership, use and/or operation of sewers and/or sewage disposal facilities. Any 2 or more political subdivisions may contract relative to the furnishing of sewage disposal services by 1 or more of such political subdivisions to the other political subdivision or subdivisions. Any such contract shall be authorized or approved by the legislative body of each contracting political subdivision and shall be effective for such term as shall be prescribed therein not exceeding 50 years.

HISTORY: CL 1948, 123.232.

123.233 Contracts validated.

Sec. 3. Any contract heretofore made relative to the matters above set forth is hereby validated if such contract would have been valid had the same been made subsequent to the effective date of this act.

HISTORY: CL 1948, 123.233.

123.234 Joint revenue bonds; issuance, authorization.

Sec. 4. For the purpose of constructing, acquiring, extending or improving a system of sewers or sewage disposal, 2 or more political subdivisions may borrow money and issue revenue bonds in the name, and by authority, of said political subdivisions jointly, but payable solely from the revenues of such system. Such political subdivisions shall provide by an ordinance, adopted by their respective governing bodies, for the issue of such revenue bonds in the name of such political subdivisions jointly, for the execution thereof by suitable officers of said political subdivisions and for the sale of said bonds at a joint meeting of the governing bodies thereof.

HISTORY: Add. 1945, p. 199, Act 137, Imd. Eff. May 4;—CL 1948, 123.234.

123.235 Joint revenue bonds; contracts; revenues.

Sec. 5. In event money shall be borrowed and bonds issued jointly under the provisions of section 4 above, said political subdivisions shall enter into a contract, the terms of which shall be set forth in said ordinance, providing for the operation of such system or systems, and the collection, custody and expenditure of the revenues thereof

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by a joint board consisting of 1 or more representatives of each of such political subdivisions. Said contract shall authorize such joint board to adopt rules and regulations governing the operation of the system or systems, to fix the rates for the service of such system or systems from time to time as may be necessary for the operation thereof and the payment of the bonds, and to collect the same either from such political subdivisions in proportion to the service furnished to each, or directly from the owners or occupants of the property served. If such rates are charged to the political subdivisions, they shall raise the money necessary to pay the same by charging and collecting rates for such service from the owners or occupants of the property served. Except as herein otherwise provided, such jointly owned systems, the revenues therefrom and the bonds issued therefor shall be subject to all the requirements and provisions of Act No. 94 of the Public Acts of 1933, as now or hereafter amended.

HISTORY: Add. 1945, p. 199, Act 137, Imd. Eff. May 4;—CL 1948, 123.235.

NOTE: Act 94, 1933, above referred to, is Compilers' §§ 141.101-141.136.

123.236 Joint sewage disposal facility; body corporate.

Sec. 6. The system herein created shall be a body corporate and may sue or be sued in its own name.

HISTORY: Add. 1962, p. 56, Act 68, Imd. Eff. Apr. 23.

Act 320, 1927, p. 767; Imd. Eff. Jun. 1.

AN ACT authorizing counties, cities, villages and townships, either individually or jointly by agreement, to provide a sanitary means of disposing of the garbage, sewage, night soil and storm water thereof; to charge owners or occupants of premises therefor; and to borrow money and issue bonds to own, acquire, construct, equip, operate and maintain intercepting sewers, other sanitary and storm sewers, sewage disposal plants, and garbage disposal plants. Am. 1929, p. 427, Act 160, Imd. Eff. May 20;—Am. 1969, p. 169, Act 86, Imd. Eff. Jul. 24.

The People of the State of Michigan enact:

123.241 Disposal plants; construction; property powers, rights.

Sec. 1. Any county, city, village or township in this state, either individually or jointly by agreement, is authorized to own, acquire, construct, equip, operate and maintain either within or without the statutory or corporate limits of such governmental agencies or municipalities, intercepting sewers, other sanitary and storm sewers, pumping stations, and a plant or plants for the treatment, purification and disposal in a sanitary manner, approved by the state department of public health, of the liquid and solid wastes, sewage and night soil, storm water and garbage of such governmental agencies and municipalities. They shall have authority to acquire by gift, grant, purchase or condemnation necessary lands therefor, either within or without the statutory or corporate limits of such governmental agencies or municipalities. However, townships shall not have the power of condemnation outside their corporate limits. For the purpose of acquiring property for the uses herein mentioned such governmental agencies or municipalities may invoke and shall have all the rights, powers and privileges granted to "public corporations" under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, and which shall be in addition to any powers granted by such governmental agencies by statute or municipalities by their charters.

HISTORY: Am. 1929, p. 427, Act 160, Imd. Eff. May 20;—CL 1929, 2466;—CL 1948, 123.241;—Am. 1969, p. 169, Act 86, Imd. Eff. Jul. 24.

CITED IN OTHER SECTIONS: Sections 123.241 to 123.253 are cited in § 323.6.

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123.242 Disposal plants; considered public utility; mortgage bonds, referendum.

Sec. 2. Such intercepting sewers, pumping stations, sewage disposal plant and system, and garbage disposal plant and system, shall be considered a public utility within the meaning of any constitutional or statutory provisions for the purpose of acquiring, purchasing, owning, operating, constructing, equipping and maintaining such intercepting sewers, pumping stations, sewage disposal plant and system, and garbage disposal plant and system. Governmental agencies or municipalities may issue faith and credit bonds or mortgage bonds therefor beyond the general limits of the bonded indebtedness prescribed by law except as hereinafter provided. Such mortgage bonds as provided in this section shall not impose any general liability upon the governmental agencies or municipalities but shall be secured only on the property and revenues as hereinafter provided of such utility including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than 20 years from the date of the sale thereof on foreclosure. Such mortgage bonds shall be sold for not less than par, bear interest at a rate not to exceed 6 per cent per annum, and the total amount thereof shall not exceed 60 per cent of the original cost of the utility except as hereinafter provided. No bonds shall be issued as general obligations of the governmental agencies or municipalities except upon a 3/5 affirmative vote of the qualified electors of such governmental agencies or municipalities and except as hereinafter provided, not in excess of 3 per cent of the assessed valuation of the real and personal property of such governmental agencies or municipalities as shown by the last preceding tax roll. No bonds shall be issued as faith and credit bonds or mortgage bonds of the utility except upon a 3/5 affirmative vote of the legislative body of such governmental agency or municipality.

HISTORY: Am. 1929, p. 427, Act 160, Imd. Eff. Aug. 20;—CL 1929, 2467;—CL 1948, 123.242.

123.243 Disposal plants; supervising body; regulations; rates, collection.

Sec. 3. The legislative body of any such governmental agency or municipality or the respective legislative bodies of such governmental agencies and municipalities, who may have agreed to jointly own and operate intercepting sewers or sewage treatment plants, may create a separate board or may designate certain officials of the governmental agencies or municipalities, to have the supervision and control of such intercepting sewers or sewage and garbage disposal plants. The legislative body, respective legislative bodies, or such board may make all necessary rules and regulations governing the use, operation, and control thereof. The legislative body or respective legislative bodies may establish just and equitable rates or charges to be paid to them for the use of such disposal plant and system by each person, firm or corporation whose premises are served thereby, and such rates or charges may be certified to the tax assessor and assessed against the premises served, and collected or returned in the same manner as other county or municipal taxes are certified, assessed, collected and returned.

HISTORY: Am. 1929, p. 428, Act 160, Imd. Eff. May 20;—CL 1929, 2468;—Am. 1939, p. 494, Act 267, Eff. Sept. 29;—CL 1948, 123.243.

TAX ASSESSMENT: See Compilers' § 211.1 et seq.

123.244 Mortgage bonds; manner of payment; sinking fund.

Sec. 4. Bonds which are issued and secured by a mortgage on the utility as hereinbefore provided shall not be a general obligation of the governmental agencies or municipalities, but shall be paid only out of revenues received from the service charges as provided in the preceding section, or from a sale of the property and franchises under a foreclosure of the mortgage. If a service rate is charged, to be paid as herein provided, such portion thereof as may be deemed sufficient shall be set aside as a sinking

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fund for the payment of the interest on said bonds, and the principal thereof at maturity.

HISTORY: Am. 1929, p. 428, Act 160, Imd. Eff. May 20;—CL 1929, 2469;—CL 1948, 123.244.

123.245 Granting of franchise to private corporation; franchise, contents; referendum.

Sec. 5. Governmental agencies or municipalities as herein mentioned instead of owning and operating a sewer system and sewage disposal plant, garbage collection and disposal system, as herein provided, may grant a franchise for a period not to exceed 30 years to any private corporation organized under, or authorized by the laws of this state to engage in such business, to build, construct, own and operate a sewage or garbage disposal system for the purpose of receiving and treating sewage and night soil and garbage as hereinbefore mentioned from such governmental agencies or municipalities. Such franchise may authorize the corporation to charge each person, firm or corporation owning property from which such sewage or garbage is received such a fee therefor as may be determined to be reasonable by the public utilities commission of this state, upon proper application made either by such corporation, governmental agencies or municipalities, and after a hearing thereon. Such franchise may also grant to the corporation the right and privilege to lay all such necessary intercepting and other sewers and connecting pipes in the streets and public alleys of the governmental agencies or of the municipalities as may be necessary to receive and conduct the sewage to the disposal plant and under such reasonable rules, regulations and supervision as may be established by the governmental agencies or the municipalities. Any such franchise shall be void unless approved by 3/5 of the electors of such governmental agencies or municipalities voting thereon at any general or special election.

HISTORY: Am. 1929, p. 429, Act 160, Imd. Eff. May 20;—CL 1929, 2470;—CL 1948, 123.245.

123.246 Power to contract with private corporation; terms.

Sec. 6. Any such governmental agencies or municipalities may enter into a contract with any corporation organized under or authorized by the laws of this state to engage in the business herein mentioned, to receive and treat in the manner hereinbefore mentioned the sewage, night soil and garbage thereof. Such contract may authorize the corporation to charge the owners of the premises served such service rate therefor as the public utilities commission of this state may determine to be just and reasonable, or the governmental agencies or municipalities may contract to pay the said corporation a flat rate for such service, and pay therefor out of their general fund or assess the owners of the property served a reasonable charge therefor to be collected as hereinbefore provided and paid into a fund to be used to defray such contract charges.

HISTORY: Am. 1929, p. 429, Act 160, Imd. Eff. May 20;—CL 1929, 2471;—CL 1948, 123.246.

123.247 Bonds; issuance, sale, interest, terms, denominations, payment, taxation.

Sec. 7. (1) When the water resources commission or a court of competent jurisdiction in this state has ordered the installation of a sewage or garbage disposal system in any of the governmental agencies or municipalities herein mentioned, and the plans therefor have been prepared, and approved by the state director of public health, the legislative body or the respective legislative bodies thereof may issue and sell the necessary bonds, for the construction and installation thereof, including the disposal plant, and such intercepting, sanitary and storm sewers as may be so ordered as being necessary to permit the effective operation of such system. This provision shall be construed to allow a governmental agency or municipality the option of selling bonds under a water resources commission order or taking or permitting the matter to go into court and selling bonds under a court order. The bonds shall draw interest at not to exceed 6% per annum, and be payable in not to exceed 40 years from the date of is-

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suance. The legislative body or the respective legislative bodies shall determine the denomination of the bonds and the date, time and manner of payment. The amount of such bonds either issued or outstanding shall not be included in the amount of bonds which the governmental agencies or municipalities may be authorized to issue under any statutes of this state or charters. Governmental agencies or municipalities issuing bonds hereunder may raise such a sum annually by taxation as the legislative body or respective legislative bodies may deem necessary to pay interest on such bonds, and to pay the principal thereof as it falls due. Such annual amount may be in excess of the authorized annual tax rate fixed by the statutes or charters.

(2) Except as otherwise provided in this act, all bonds issued hereunder shall be issued and sold in conformity to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948. Court-ordered bonds shall not require voted approval of the electors and shall not be subject to the provisions of paragraph (g) of section 5 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.5 of the Compiled Laws of 1948, as to publication of notice, petition and referendum. Bonds other than court-ordered bonds issued under this act shall require voted approval of the electors only if an appropriate petition is filed in accordance with such provisions.

HISTORY: Am. 1929, p. 429, Act 160, Imd. Eff. May 20;—CL 1929, 2472;—CL 1948, 123.247;—Am. 1969, p. 169, Act 86, Imd. Eff. Jul. 24.

123.248 Installation order; record by legislative body; plans submitted to commissioner of health; bonds.

Sec. 8. Whenever an order shall have been made by any court of competent jurisdiction, as hereinbefore provided, the fact that such order was issued shall be recited in the official minutes of the legislative body or the respective legislative bodies. The said body or bodies shall thereupon require that plans and specifications be prepared of such sewage or garbage disposal system, including the necessary storm and sanitary sewers, which plans when submitted and approved by the legislative body or respective legislative bodies shall be submitted thereafter to the state commissioner of health for his approval. If such plans are so approved, the legislative body or respective legislative bodies shall thereupon authorize the issuance and sale of the necessary bonds to establish the proposed system.

HISTORY: Am. 1929, p. 430, Act 160, Imd. Eff. May 20;—CL 1929, 2473;—CL 1948, 123.248

123.249 Construction of act.

Sec. 9. The authority given shall be in addition to and not in derogation of any power existing in any of the counties, cities, villages or townships under any statutory or charter provisions which they may now have or may hereafter adopt.

HISTORY: Am. 1929, p. 430, Act 160, Imd. Eff. May 20;—CL 1929, 2474;—CL 1948, 123.249;—Am. 1969, p. 170, Act 86, Imd. Eff. Jul. 24.

123.250 Institution of proceedings.

Sec. 10. Proceedings under this act shall be taken only in a court of competent jurisdiction in the county in which the proposed interceptors sewage or garbage disposal plants are to be constructed.

HISTORY: Am. 1929, p. 430, Act 160, Imd. Eff. May 20;—CL 1929, 2475;—CL 1948, 123.250.

Sec. 11. (This was a repeal section.)

HISTORY: CL 1929, 2476;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 2, 1926, Ex. Ses.

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123.252 Inter-municipality contract power.

Sec. 12. Whenever it is deemed expedient for the safety and health of the people, governmental agencies and municipalities are hereby authorized to enter into agreement with each other to raise money, issue bonds to erect and maintain intercepting sewers and sewage treatment plants.

HISTORY: Add. 1929, p. 430, Act 160, Imd. Eff. May 20;—CL 1929, 2477;—CL 1948, 123.252.

123.253 Inter-municipality contract power; approval.

Sec. 13. Whenever governmental agencies and municipalities shall desire to act under the provisions of this law, the relationship established between such governmental agencies and municipalities shall be fixed by contract and such contracts may be made by governmental agencies and municipalities under the provisions of this act in a manner and to the extent that natural persons might make contracts for like purposes. Such contracts before becoming operative shall be approved by a vote of the majority of the members elect of each of the respective legislative bodies of the governmental agencies and municipalities operating under the provisions of this act.

HISTORY: Add 1929, p. 431, Act 160, Imd. Eff. May 20;—CL 1929, 2478;—CL 1948, 123.253.

Sec. 14. (This was a severing clause section.)

HISTORY: Add. 1929, p. 431, Act 160, Imd. Eff. May 20;—CL 1929, 2479;—Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 298, 1917, p. 739; Eff. Aug. 10.

AN ACT to authorize cities and villages having a population of less than 250,000 to levy a tax for the purpose of collecting and disposing of garbage; and providing for the issuance of bonds therefor. Am. 1919, p. 451, Act 253, Eff. Aug. 14;—Am. 1969, p. 390, Act 213, Imd. Eff. Aug. 6.

The People of the State of Michigan enact:

123.261 Garbage disposal plants in cities and villages; annual tax levies, limit; bonds, limit; garbage, definition.

Sec. 1. The city council of each city, whether organized under the general law or special charter, having a population of less than 250,000, and the president and board of trustees of each village having a population of less than 250,000, shall have power to establish and maintain garbage systems or plants for the collection and disposal of garbage in such city or village, and may levy a tax not to exceed 2 mills on the dollar on all taxable property in the city or village according to the valuation of the same, as made for the purpose of state and county taxation by the last assessment in the city or village for such purposes. The annual garbage tax shall be in addition to the amount authorized to be levied for general purposes by the general law or special charter under which the city or village is incorporated. All cities or villages having a population of less than 250,000 may, for the construction of a garbage disposal plant or system, issue bonds in a sum not to exceed 2 mills on the dollar on all taxable property in the city or village according to the valuation of the same, as made for the purpose of state and county taxation by the last assessment in the city or village, and may make the bonds run for a period of not to exceed 5 years and to bear interest at a rate not to exceed 6% per annum payable semiannually.

As used in this act "garbage" means any putrescible and nonputrescible solid wastes, except body wastes, and includes ashes, incinerator ash, incinerator residue,

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street cleanings, solid market wastes, solid industrial wastes and also rubbish including such items as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and litter of any kind.

HISTORY: Am. 1919, p. 451, Act 253, Eff. Aug. 14;—CL 1929, 2480;—CL 1948, 123.261;—Am. 1969, p. 391, Act 213, Imd. Eff. Aug. 6.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 2481;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 261, 1927, p. 504; Eff. Sep. 5.

AN ACT to prevent the acquisition, construction, operation, maintenance or building of garbage disposal plants, garbage reduction plants, sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter in certain cities and villages without having first procured permission from said cities or villages; to provide for the enforcement of this act; to declare such acquisition, construction, operation, maintenance, or building, a nuisance, in certain cases; to provide a manner in which the consent of said cities and villages may be granted, and to provide a penalty for the violation of this act.

The People of the State of Michigan enact:

123.271 Disposal plants; power to prevent construction.

Sec. 1. All incorporated cities and villages of this state shall have the power to prevent any other municipal or public corporation from acquiring, erecting, owning, operating, maintaining, managing, controlling or building garbage disposal plants, garbage reduction plants, sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter within the corporate limits of such cities or villages.

HISTORY: CL 1929, 2482;—CL 1948, 123.271.

123.272 Required permit.

Sec. 2. It shall be unlawful for any individual, firm, private, public or municipal corporation to acquire, erect, own, operate, maintain, manage, control or build garbage disposal plants, sewage disposal plants, settling basins, apparatus or screens for the treatment of sewage matter within the corporate limits of any other city or village, without first obtaining a permit from said city or village in accordance with the provisions of this act.

HISTORY: CL 1929, 2483;—CL 1948, 123.272.

123.273 Required permit; procedure to procure; disposal of sewage by municipality; members of municipality authority.

Sec. 3. Any public or municipal corporation desiring such permit shall make application for the granting thereof unto the legislative body of any city or village in which said work or plant is proposed to be located. Such application shall state the exact property within the city limits to be devoted to said plant and shall state the kind of work or plan contemplated and the size and capacity thereof and shall render such other information to the said legislative body as the latter may require. The proposal shall, in manner and form as said body may provide, be submitted to a vote of the electors of said city or village at the next general or special election, and if the granting of the permit be approved by a majority of the electors voting therefor, then the permit shall be granted: Provided, however, That nothing in this act shall prevent any city or village from disposing of its own sewage matter within its own corporate limits or in territory outside thereof which is not within the limits of any other incorporated city or village without obtaining a permit therefor as in this act required, or in any such plants and works actually in operation at the time of the passage of this act or enlargements thereto: Provided further, That nothing in this act shall prevent any city or

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village which is a member of an authority incorporated under Act No. 179 of the Public Acts of 1947, being sections 123.301 to 123.310, inclusive, of the Compiled Laws of 1948, for the purpose of the collection or disposal, or both, of garbage or rubbish, or both, from acquiring, erecting, owning, operating, maintaining, managing, controlling or building the equipment, trucks, buildings and plants by such authority which are necessary for the purposes of its incorporation, within the corporate limits of such city or village member, without obtaining a permit therefor as in this act required: Provided further, That nothing in this act shall be construed as authority to violate the provisions of any local zoning ordinance.

HISTORY: CL 1929, 2484;—CL 1948, 123.273;—Am. 1952, p. 36, Act 33, Imd. Eff. Mar. 31.

123.274 Declaration of nuisance; action.

Sec. 4. Any building, plant or work erected, constructed or carried on in violation of any *the provisions of this act is hereby declared to be a nuisance and an action for the abatement of such nuisance may be brought in the name of the people of the state of Michigan, by the attorney general of the state of Michigan, or by any one or more of the property owners within the city or village in which said building, plant, or work is attempted to be placed in violation of this act.

HISTORY: CL 1929, 2485;—CL 1948, 123.274.

*NOTE: It is evident to the Compiler that the word "of" was omitted by error.

123.275 Application of act.

Sec. 5. Nothing in this act shall in any way impair, impeach, or in any way affect any right of action in law or in equity that may now exist in addition to the provisions of this act for the prevention of building plants or works, named in this act, nor shall this act in any way affect the right of any city or village to enact ordinances for their protection against such building plants or works in this act named. This act shall not apply to sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter, where the same are located within the confines of any city or village whose sewage constitutes part of the total sewage entering such a facility.

HISTORY: CL 1929, 2486;—CL 1948, 123.275;—Am. 1962, p. 17, Act 21, Imd. Eff. Apr. 9.

Act 179, 1947, p. 254; Eff. Oct. 11.

AN ACT to provide for the incorporation of certain municipal authorities for the collection or disposal, or both, of garbage or rubbish, or both, and for the operation of a dog pound; and to prescribe the powers, rights and duties thereof. Am. 1955, p. 144, Act 92, Imd. Eff. Jun. 2.

The People of the State of Michigan enact:

123.301 Garbage and rubbish disposal and dog pound authority; incorporation by municipality.

Sec. 1. Any 2 or more cities, villages or townships, hereinafter referred to as "municipalities", or any combination thereof, may incorporate an authority for the purpose of the collection or disposal, or both, of garbage or rubbish, or both, and for the establishment and operation of a dog pound, by the adoption of articles of incorporation, by the legislative body of each such municipality. The fact of such adoption shall be endorsed on such articles of incorporation by the mayor and clerk of the city, the president and clerk of the village, or the supervisor and clerk of the township, as the case may be, in form substantially as follows:

"The foregoing articles of incorporation were adopted by the ..... of the ..... of ....., ... county, Michigan, at a meeting duly held on the ..... day of ....., 19.... ..... of said ..... Clerk of said ....."

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The authority shall be comprised of the territory within such incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in said articles and circulating within the authority. One printed copy of such articles of incorporation certified as a true copy by the person or persons designated therefor, with the date and place of such publication, shall be filed with each the secretary of state and the clerk of the county within which such authority or the major portion thereof is located. Such authority shall become effective at the time provided in said articles of incorporation. The validity of such incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of such certified copies with the secretary of state and the county clerk.

HISTORY: CL 1948, 123.301;—Am. 1955, p. 144, Act 92, Imd. Eff. Jun. 2.

CITED IN OTHER SECTIONS: Sections 123.301 to 123.310 are cited in § 123.273.

123.302 Authority; articles of incorporation, contents.

Sec. 2. Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitations of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibility of causing the articles of incorporation to be published and printed copies to be certified and filed as above provided or who are charged with any other responsibility in connection with the incorporation of said authority, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

HISTORY: CL 1948, 123.302.

123.303 Authority; corporate powers; construction of act.

Sec. 3. Such authority shall be a body corporate with power to sue or be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation, and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

HISTORY: CL 1948, 123.303.

123.304 Authority; acquisition, management, sale or lease of land; condemnation.

Sec. 4. For the purposes of its incorporation, the authority may acquire private property by purchase, lease, gift, devise or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911 as now or hereafter amended, or any other appropriate statute.

HISTORY: CL 1948, 123.304.

123.305 Authority; contracts, time limitations, charges.

Sec. 5. The authority and any municipality which shall be a part thereof, shall have authority to enter into contract for the collection or disposal, or both, by the authority of garbage or rubbish, or both, originating in such municipality, and for the establishment and operation of a dog pound for such member municipalities, for a period not exceeding 30 years. The charges specified in such contract shall be subject to increase by the authority, if necessary, in order to provide funds to meet its obligations. Such authority may also enter into contracts with cities, villages and townships which are not a part thereof, which contracts may provide for charges greater than those to the municipalities which are a part of the authority, but no such contract shall be for a pe-

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riod longer than 30 years and the charges thereunder shall be subject to change from time to time.

HISTORY: CL 1948, 123.305;—Am. 1955, p. 145, Act 92, Imd. Eff. Jun. 2;—Am. 1962, p. 14, Act 16, Imd. Eff. Mar. 26.

123.306 Authority; right to make subcontracts.

Sec. 6. The authority shall have the power to contract with any person, firm or corporation for the performance by the latter of any part of the work of collecting or disposing, or both, of garbage or rubbish, or both.

HISTORY: CL 1948, 123.306.

123.307 Authority; articles of incorporation, amendment.

Sec. 7. Any city, village or township may become a part of such authority by amendment to the articles of incorporation, adopted by the legislative body of such city, village or township and by the legislative body of each city, village or township of which such authority is composed. Other amendments may be made to such articles of incorporation if adopted by the legislative body of each city, village or township of which the authority is composed. Any such amendment shall be endorsed, published and certified printed copies filed in the same manner as the original articles of incorporation, except that the filed printed copies shall be certified by the recording officer of the authority.

HISTORY: CL 1948, 123.307.

123.308 Power to raise and expend moneys; payment of contracts; taxing power denied authority.

Sec. 8. The legislative body of each city, village or township which is a part of such authority is authorized to raise by tax or pay from its general funds, any moneys required to be paid by the articles of incorporation or by the terms of any contract between it and the authority, unless some other method is provided therefor in such articles of incorporation or contract. The authority shall have no direct taxing power.

HISTORY: CL 1948, 123.308

123.309 Self-liquidating revenue bonds; issuance.

Sec. 9. For the purpose of acquiring, constructing, improving, enlarging or extending facilities for the collection or disposal, or both, of garbage or rubbish, or both, or for the purpose of refunding bonds previously issued, the authority may issue self-liquidating revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948. No such bonds shall be a general obligation of the authority but shall be payable from revenues only.

HISTORY: CL 1948, 123.309;—Am. 1959, p. 306, Act 205, Imd. Eff. Jul. 23.

123.310 Powers additional.

Sec. 10. The powers herein granted shall be in addition to those granted by any statute or charter.

HISTORY: CL 1948, 123.310.

Act 235, 1947, p. 353; Eff. Oct. 11.

AN ACT to regulate the ownership, extension, improvement and operation of public water and sewage disposal systems lying within 2 or more public corporations; to authorize the acquisition, by any public corporation, of that part of a public water or sewage disposal system lying within its boundaries; and to provide for the payment and security of revenue bonds issued for the construction, acquisition, extension and improvement of such systems.

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The People of the State of Michigan enact:

123.331 Public corporation; definition.

Sec. 1. The term "public corporation" as used herein shall be deemed to mean any county, metropolitan district, city, village or township in this state.

HISTORY: CL 1948, 123.331.

123.332 Water and sewage disposal system; acquisition through change of boundaries; referendum.

Sec. 2. When any public corporation shall have acquired any water or sewage disposal system, and, by subsequent incorporation, annexation or other change of boundaries, the land in which any part of such system lies shall have been placed within the boundaries of any other public corporation, the legislative or governing body of such other public corporation, if it desires to acquire that part of such system lying within its boundaries, shall submit the question of acquiring the same to vote of its qualified electors at a regular or special election.

HISTORY: CL 1948, 123.332.

123.333 Disposal system; electors' approval; ordinance.

Sec. 3. If such proposition shall receive the favorable vote of 3/5 of the electors voting thereon, the legislative or governing body of such public corporation may adopt an ordinance providing for taking the ownership of that portion of such system lying within its boundaries on a specified date not less than 3 months from the adoption of said ordinance and cause a copy of said ordinance to be delivered within 10 days after its adoption to the clerk of each other public corporation within which any part of such system is located.

HISTORY: CL 1948, 123.333.

123.334 Disposal system; joint board or commission, control; members, election.

Sec. 4. On or before the date specified in said ordinance, it shall be the duty of each of such public corporations, by its legislative or governing body, to elect 1 member of a joint board or commission. The members so elected shall elect 1 additional member, and the board so constituted shall have full control of the operation, extension and improvement of the system except as herein otherwise provided. The members of such board shall be elected annually in the same manner.

HISTORY: CL 1948, 123.334.

123.335 Disposal system; alternative plans for division or operation.

Sec. 5. The several public corporations in which said system lies may, at any time before or after the date specified, enter into a contract providing, in lieu of the provisions of section 4 of this act, for the division of such system, between the several public corporations, or for its operation as a single unit either by 1 of the public corporations as agent for all, or by a joint board of commissioners, 1 or more of whom shall be appointed by the legislative or governing body of each public corporation, and 1 or more shall be elected by such commissioners or by some disinterested agency.

HISTORY: CL 1948, 123.335.

123.336 Disposal system; retirement of bonds; non-callable bonds; bond and interest redemption fund, payment priority.

Sec. 6. If there be outstanding revenue bonds issued for the acquisition, construction, extension or improvement of such system, such bonds may be retired either by the issue of joint refunding bonds on behalf of all the public corporations by concurrent ordinances of their respective legislative or governing bodies, or by the apportionment of the outstanding indebtedness among the several public corporations and assumption by each of its proportion thereof, or the issue by each of revenue refunding

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bonds or other obligations for its proportion. Unless otherwise provided by contract, the outstanding indebtedness, if such plan of refunding or assumption shall be adopted by either public corporation, and if there be non-callable bonds the owners of which do not consent to the surrender thereof for redemption, exchange or indorsement, the plan may nevertheless be made effective if provision be made for the subordination of the refunding or assumed bonds to those not consenting and for a separate bond and interest redemption fund for such non-consenting bonds and the deposit therein of all money required by the ordinance under which the bonds were originally issued for the payment of the non-consenting bonds and reserves therefor, before any provision is made for the payment of the refunding or assumed bonds or reserves therefor.

HISTORY: CL 1948, 123.336.

123.337 Disposal system; operation as a single unit; segregation and disposition of revenues, retirement of bonds.

Sec. 7. The integrity and unit of operation of the entire system as a single unit shall be preserved, and the segregation, safekeeping and disposition of its revenues as provided by the bond ordinance shall be continued until all outstanding bonds assumed by the revenues of the entire system shall have been retired by payment, redemption, assumption, or exchange, or provision made for their priority in accordance with section 6 of this act.

HISTORY: CL 1948, 123.337.

123.338 Disposal system; operation as a separate unit after retirement of bonds; collection and disposition of revenues.

Sec. 8. After all outstanding bonds have been paid or their priority secured as aforesaid, or have been retired by the issue of separate refunding bonds, by the several public corporations, jointly or severally, or by the assumption by each of its proportion thereof, any public corporation shall have the right to take over the ownership and operation of that part of the system lying within its boundaries and the collection and disposition of the revenues derived therefrom, subject to such conditions as will secure to all the subdivisions the connections, flowage rights and other facilities necessary to the operation of their respective systems.

HISTORY: CL 1948, 123.338.

123.339 Disposal system; division between public corporations; proportionate share of expenses or indebtedness.

Sec. 9. If any such system shall be divided, each public corporation shall provide for the operation of its portion and for the proper proportion of any expenses common to the entire system or separate systems, including payment of interest and principal of any unrefunded bonds of the original issue and for the payment of those expenses properly chargeable to its separate system including the payment of any bonds assumed or separately issued by it.

HISTORY: CL 1948, 123.339.

123.340 Disposal system; operation by joint board or agency as unit; fund payments; depreciation, contingent and surplus funds.

Sec. 10. If the system shall be operated as a single unit, by a joint board or by 1 public corporation as agent for all, the operating board or agency shall provide for the payment of the necessary amounts into the operation and maintenance fund and into the bond and interest redemption fund for all bonds secured by the revenues of the entire system. The public corporations may, by contract, provide for the joint holding and management of other revenues or for their apportionment and deposit into separate bond and interest redemption funds for bonds, severally issued or assumed and into separate depreciation, contingent and surplus funds. Unless otherwise provided by such contract, such revenues shall be divided and paid quarterly or oftener into

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their respective treasuries and set apart by each into the appropriate funds. Unless otherwise provided by such contract, each public corporation shall have control of the construction of extensions and improvements to the system within its boundaries, and shall be entitled to its proportion of the contingent and surplus funds for that purpose.

HISTORY: CL 1948, 123.340.

123.341 Disposal system; apportionment of revenues, debts, properties; realty, purchase, use.

Sec. 11. Unless otherwise provided by contract, all revenues subject to apportionment and all outstanding indebtedness to be separately refunded or assumed by the several public corporations shall be divided in proportion to the net revenues received during the preceding fiscal year from services rendered by the system to property within the respective boundaries of such public corporations. All properties, including buildings, shops, garages, warehouses having a permanent location, shall upon appraisal be purchased by the public corporation within whose boundaries it is located for a percentage of the appraised value, applicable to the division of revenues as herein provided, but so far as necessary to the efficient operation of parts of the system lying within the boundaries of another public corporation, such property may continue to be used for that purpose for a charge to such other public corporation for its proportion of the expenses of operation and repairs. Any cash assets and intangible property shall be divided in the same proportion as herein provided for the net revenues.

HISTORY: CL 1948, 123.341.

123.342 Disposal system provisions applicable.

Sec. 12. Except as herein provided, all such systems shall be subject to the provisions of Act No. 94 of the Public Acts of 1933, as now or hereafter amended.

HISTORY: CL 1948, 123.342.

NOTE: Act 94, 1933, above referred to, is Compilers' § 141.101 et seq.

123.343 Disposal system; cumulative effect of act; repeal of authority granted by other law.

Sec. 13. This act is cumulative authority for the exercise of the powers hereby granted, and does not repeal any existing authority granted by any other law.

HISTORY: CL 1948, 123.343.

123.344 Disposal system; joint acquisition by public corporations under other statutes; contracts.

Sec. 14. Any public corporations which may, heretofore or hereafter, have jointly acquired the ownership or right to operate any water or sewage disposal system under any other statute may make any contract in regard to such system of the nature hereby authorized.

HISTORY: CL 1948, 123.344.

123.345 Disposal system; contracts for division of systems existing or to be acquired.

Sec. 15. Any public corporation which may, heretofore or hereafter, have acquired a water or sewage disposal system extending beyond its own boundaries and any public corporation into whose territory any such system shall extend, may divide such system by a contract of the nature hereby authorized.

HISTORY: CL 1948, 123.345.

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123.346 Vote or proceeding by public corporation before effective date of act; validation.

Sec. 16. Any vote or proceeding authorized hereby which may have been taken by any public corporation before the effective date of this act is hereby validated.

HISTORY: CL 1948, 123.346.

123.347 Act not deemed part of bondholders' contract; proceedings impairing contracts prohibited.

Sec. 17. This act shall not be deemed to be a part of the bond contract between a public corporation hereafter issuing any revenue bonds and the holders of such bonds, and no proceedings shall be taken hereunder which will impair the contract rights of such bondholders.

HISTORY: CL 1948, 123.347.

Act 82, 1955, p. 129; Imd. Eff. May 26.

AN ACT to provide for the acquirement by a city of the water supply system and/or sewage disposal system of a metropolitan district and to permit such a city to own, maintain, operate, improve, enlarge and extend such system or systems either within or without its limits, and to provide for the transfer to such city of the rights, obligations, property and functions of the metropolitan district.

The People of the State of Michigan enact:

123.351 Definitions.

Sec. 1. The words "water supply system and/or sewage disposal system" as herein used shall include either or both of such systems or a combined water supply and sewage disposal system.

The term "water supply system" shall include all plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water and/or the distribution of water.

The term "sewage disposal system" shall include all sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentalities and properties used or useful in connection with the collection, treatment and/or disposal of sewage and/or industrial wastes.

HISTORY: New 1955, p. 129, Act 82, Imd. Eff. May 26.

123.352 Purchase of water supply system and/or sewage disposal system by city from adjoining metropolitan district; contract, approval.

Sec. 2. Where any part of a city adjoins or is included in a metropolitan district organized under the provisions of Act No. 312 of the Public Acts of 1929, as amended, being sections 119.1 to 119.15, inclusive, of the Compiled Laws of 1948, such city may acquire by purchase the water supply system and/or sewage disposal system owned by such metropolitan district, and may own, maintain and operate the same either separately or as a part of its own water supply system and/or sewage disposal system, and may improve, enlarge and extend the same. Any such metropolitan district is hereby empowered to sell its water supply system and/or sewage disposal system in accordance with the terms of this act. In the event that there are outstanding any bonds pledging the revenues of such metropolitan district system or systems, the city may assume the obligations of the metropolitan district on said bonds as a part or complete payment of the purchase price. The purchase agreement shall be evidenced by a contract between the city and metropolitan district, which contract shall be approved by a resolution adopted by the affirmative vote of 3/5 of the members elect of the respec-

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tive governing bodies of such city and metropolitan district. Such a contract shall contain those provisions which the parties thereto shall deem necessary to properly effect such sale and purchase and to define the rights and obligations of the parties. No such contract shall be entered into unless the disposal of the system or systems shall have been authorized by 3/5 of the electors of the metropolitan district voting thereon at a regular or special election and unless the acquirement of the system or systems shall have been authorized by 3/5 of the electors of the city voting thereon at a regular or special city election. Such an authorization shall be valid for the purpose of this act if made at an election held after the effective date of this act or within 1 year prior thereto. The foregoing requirements as to authorization by the electors shall supersede any charter requirements in that respect.

HISTORY: New 1955, p. 129, Act 82, Imd. Eff. May 26.

123.353 Succession of rights, obligations and property; contract.

Sec. 3. Any city acquiring a water supply system under the terms hereof shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying water, unless the purchase contract shall otherwise provide. Any city acquiring a sewage disposal system under the terms hereof shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying sewage disposal, unless the purchase contract shall otherwise provide. Any city acquiring both a water supply system and a sewage disposal system, or a combined water supply and sewage disposal system, under the terms hereof, shall succeed to all the rights, obligations and property of the metropolitan district, respecting or connected with such system or with the functions of supplying water and sewage disposal, unless the purchase contract shall otherwise provide. The said rights, obligations and property shall include the right to transact a local business and the right to lay, maintain and operate water mains and/or sewers in the public highways, to the extent that such rights have been granted to the metropolitan district by any city, village or township.

HISTORY: New 1955, p. 130, Act 82, Imd. Eff. May 26.

123.354 Services; continuance, extension.

Sec. 4. Any city acquiring a water supply system shall have the right to supply water, any city acquiring a sewage disposal system shall have the right to supply sewage disposal, and any city acquiring a combined water supply and sewage disposal system, shall have the right to supply water and sewage disposal, to the same area to which the metropolitan district had the right to furnish such services on the effective date of the purchase contract, and for the purpose of furnishing such services such city may improve, enlarge, extend, maintain and operate such system or systems within and/or without its corporate limits: Provided, That the city shall comply with any constitutional requirements in respect to the exercise outside its boundaries of any such rights which shall not have been constitutionally transferred to it pursuant to this act.

HISTORY: New 1955, p. 130, Act 82, Imd. Eff. May 26.

123.355 Readjustment of service rates; adoption of ordinances, property outside limits.

Sec. 5. A city so acquiring such a system may readjust the service rates provided the same do not impair the obligation of any bond contract. The legislative body of a city may, subject to constitutional and statutory limitations, adopt such ordinances and resolutions as may be necessary for the care, protection, preservation, management and control of any system acquired pursuant to this act, including that portion outside its city limits.

HISTORY: New 1955, p. 130, Act 82, Imd. Eff. May 26.

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123.356 Construction of act.

Sec. 6. This act and any contract entered into pursuant thereto shall be liberally construed by the courts. The provisions of this act shall be construed as an additional grant of power to that prescribed by other statutory provisions or by any charter provisions.

HISTORY: New 1955, p. 130, Act 82, Imd. Eff. May 26.

Act 266, 1951, p. 445; Eff. Sep. 28.

AN ACT regulating garbage disposal by cities and villages; to provide for the adoption of ordinances; to provide for the borrowing of money and the issuance of bonds; to provide for rates for services; and to declare the effect of this act.

The People of the State of Michigan enact:

123.361 Garbage disposal act; short title.

Sec. 1. This act shall be known and may be cited as "the garbage disposal act."

HISTORY: New 1951, p. 445, Act 266, Eff. Sep. 28.

123.362 Garbage disposal equipment system; city or village may provide; garbage disposal equipment, definition; garbage grinders.

Sec. 2. Any city or village may by ordinance provide for a garbage disposal equipment system to acquire, purchase, lease, install, replace or repair garbage disposal equipment. The term "garbage disposal equipment," whenever used in this act, except when otherwise indicated by the context, shall be construed to mean all equipment or machinery of any nature whatsoever and all appurtenances thereto used or useful in treating and reducing garbage and similar waste materials prior to introduction into the sewer system of the city or village, including but not limited to garbage grinders: Provided, That when garbage grinders are installed for such disposal, the city or village shall have a sanitary sewage disposal plant into which the refuse from such garbage grinders is deposited for treatment.

HISTORY: New 1951, p. 445, Act 266, Eff. Sep. 28.

123.363 Installation on private property; written agreement with owner; ordinance, provisions, rates and charges, lien, enforcement, priority; discontinuance of water service.

Sec. 3. Garbage disposal equipment may be installed on private property by said city or village making provision for garbage disposal equipment, as may be required by ordinance, after written agreement with the owner of such property. Any such ordinance adopted pursuant to the provisions of this act shall, in addition to providing for the payment of rates and charges and such other terms and conditions as may be necessary to fully perform and exercise the powers conferred by this act provide that all such garbage disposal equipment shall be deemed the property of the city or village installing such equipment and any such ordinance shall fix the responsibility for the use, care, maintenance and replacement thereof. All such rates and/or charges shall have as security for their collection a lien upon the building in which said equipment is installed and upon the premises or lot or lots or parcel or parcels of land upon which the building is situated. Such lien shall become effective and shall be enforced as provided by ordinance. Such lien shall have priority over all other liens except taxes, special assessments and liens for unpaid water charges or sewage disposal charges. Any

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city or village may provide by ordinance for the discontinuance of water service from the building whenever any person shall fail to pay rates or charges for such garbage disposal equipment.

HISTORY: New 1951, p. 446, Act 266, Eff. Sep. 28.

123.364 Bonds; issuance, amount, interest, maturity; tax exemption; principal and interest, payment.

Sec. 4. For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, installing, extending, enlarging, adjusting and/or repairing a garbage disposal equipment system, any city or village may borrow money and issue its negotiable bonds therefor: Provided, That no bonds shall be issued under the authority of this section unless and until the ordinance required by section 3 hereof has been adopted, which said ordinance shall set forth a brief description of the contemplated garbage disposal equipment system, the estimated cost of such a system and the amount, maximum rate of interest, and the time of payment of the bonds, not to exceed 20 years. Such bonds and coupons shall be exempt from any and all taxation whatsoever by the state of Michigan or by any taxing authority within the state. The principal of and interest on such bonds shall be payable primarily from the net revenues derived from the operation of the garbage disposal equipment system, and in addition the city or village may pledge the full faith, credit and resources of the city or village for the payment thereof. No bond or coupon issued pursuant to the provisions of this act shall constitute an indebtedness of the city or village within the meaning of any charter, statutory or constitutional limitation. All bonds issued under authority of this section shall be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended.

HISTORY: New 1951, p. 446, Act 266, Eff. Sep. 28.

123.365 Self-liquidating bonds, secured by revenues; liability.

Sec. 5. For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, installing, extending, enlarging, adjusting and/or repairing a garbage disposal equipment system, any city or village may issue self-liquidating bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948. Such bonds shall not impose any liability upon the city or village, but shall be secured only by the revenues from the garbage disposal equipment system.

HISTORY: New 1951, p. 446, Act 266, Eff. Sep. 28.

123.366 Preliminary expense; appropriation, repayment.

Sec. 6. Any city or village which by ordinance provides for a garbage disposal equipment system to be financed by the issuance of bonds as aforesaid, may appropriate for and set up a fund to provide for all necessary preliminary expenses in making a survey estimate of costs and revenues, employment of personnel and all other expenses necessary and to be paid prior to the issuance and delivery of the bonds authorized pursuant to the provisions of this act: Provided, That the funds so appropriated and expended shall be repaid from the first proceeds of the sale of bonds, and the amount of any such appropriation so advanced shall be a first charge against the proceeds of the sale of such bonds.

HISTORY: New 1951, p. 446, Act 266, Eff. Sep. 28.

123.367 Moneys; use; unexpended balance, use; bond and interest redemption fund; cancellation; ordinance provisions.

Sec. 7. All moneys received from the sale of any such bonds shall, after the payment of any appropriation made under authority of section 6 hereof, be used solely for the purchase, acquisition, construction, improvement, installation, extension, enlargement, adjustment and/or repair of the garbage disposal improvement for which issued, in-

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cluding any engineering, legal and other expenses incident thereto, and including if it shall have been so determined in the authorizing ordinance, the payment of the interest on such bonds during a period not to exceed the first 3 years following the date of such bonds and the amount required for operation and maintenance prior to the receipt of the first revenues: Provided, That any unexpended balance of the proceeds of sale of any such bonds remaining after the completion of the project for which issued, may to the extent of 15 per centum of the amount of the issue be used for the purpose of enlarging or improving the garbage disposal equipment system, if such use shall be approved by the municipal finance commission, and any remaining balance shall be paid immediately into the bond and interest redemption fund for such bonds, and the same shall be used only for the redemption or purchase at not more than the fair market value of outstanding bonds of the issue from which such proceeds were derived. Any bonds so acquired by purchase shall be cancelled and shall not be reissued. Each ordinance shall state the period for which interest is to be capitalized, and upon receipt of the proceeds of the bonds, there shall be set aside therefrom in the bond and interest redemption fund the amount of interest which shall accrue during such period at the interest rate or rates specified in the bonds. Money so set aside shall be used solely for the payment of such capitalized interest.

HISTORY: New 1951, p. 447, Act 266, Eff. Sep. 28.

123.368 Free service prohibited.

Sec. 8. No free service shall be furnished by any such garbage disposal equipment system to any person, firm or corporation, public or private, or to any public agent or instrumentality while any bonds issued in pursuance of this act shall remain unpaid.

HISTORY: New 1951, p. 447, Act 266, Eff. Sep. 28.

123.369 Additional bonds; negotiation.

Sec. 9. Any city or village issuing bonds pursuant to the provisions of this act may, at the time of the authorization of such bonds, provide by ordinance for the issuance of additional bonds of equal standing in the event the bonds first authorized shall prove insufficient or in the event subsequent extension, enlargement, improvement and/or repair is deemed advisable, which said additional bonds may be negotiated from time to time as the proceeds therefrom may be necessary for such purposes.

HISTORY: New 1951, p. 447, Act 266, Eff. Sep. 28.

123.370 Retirement of outstanding bonds; new bonds, issuance, refunding bonds, premium; sale, exchange of refunding bonds, surrender and cancellation.

Sec. 10. Where a borrower has outstanding any bonds issued under the provisions of this act, it may thereafter issue and negotiate new bonds under this act for the purpose of providing for the retirement of such outstanding bonds, in whole or in part. Such new bonds may only be issued in accordance with and subject to the statutory provisions governing the issuance of the bonds so refunded, and except as in the refunding ordinance otherwise provided shall be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded. Such refunding bonds may be issued to include the amount of any premium to be paid upon the calling of the bonds to be refunded, or if such bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded: Provided, That the amount of premium so included shall not in either case exceed 5 per centum of the principal amount of the bonds to be refunded. Nothing in this section shall be construed as providing for the refunding of noncallable unmatured bonds without the consent of the holder or holders thereof. Any such refunding bonds may be sold or may be exchanged for the obligations to be refunded thereby, and if sold, the proceeds shall be deposited in a bank or trust company in a special trust account

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to be used only for the redemption or purchase of such outstanding bonds. Where refunding bonds are to be issued and sold for the purpose of refunding unmatured noncallable bonds, the latter must be surrendered and cancelled at the time of the delivery to the purchaser of such refunding bonds.

HISTORY: New 1951, p. 447, Act 266, Eff. Sep. 28.

123.371 Service rates fixed by ordinance; supervision and regulation.

Sec. 11. Rates for services furnished by any garbage disposal equipment system shall be fixed by ordinance. The rates charged shall be sufficient to provide for the payment of the expenses of administration and operation and such expenses of maintenance of the system as may be necessary to preserve the same; and to provide for the payment of principal and interest of all bonds payable therefrom as and when the same become due and payable; and for the creation of any reserve therefor, as required in the ordinance; and to provide for such other expenditures and funds as the ordinance may require. Rates charged for the services furnished pursuant to this act shall not be subject to the supervision or regulation by any state bureau, board, commission or like instrumentality or agency thereof.

HISTORY: New 1951, p. 448, Act 266, Eff. Sep. 28.

123.372 Authority additional to other powers.

Sec. 12. The authority hereby given shall be in addition to and not in derogation of any power existing or hereinafter granted to any city or village under any statutory or charter provisions.

HISTORY: New 1951, p. 448, Act 266, Eff. Sep. 28.

123.373 Powers conferred upon cities and villages; authorization and issuance not subject to referendum.

Sec. 13. Unless otherwise provided in this act, the powers herein conferred upon cities and villages shall be exercised by their respective governing bodies; and this act shall be construed as authorizing the issuance of bonds hereunder without submitting the proposition for the approval of the same to voters of the borrower, and the authorization and issuance of bonds pursuant to this act shall not be subject to a referendum vote of the electors of the city and village.

HISTORY: New 1951, p. 448, Act 266, Eff. Sep. 28.

123.374 Liberal construction of act.

Sec. 14. This act being necessary for and to secure the public health, safety and welfare of cities and villages of the state of Michigan, shall be liberally construed to effect the purposes hereof.

HISTORY: New 1951, p. 448, Act 266, Eff. Sep. 28.

Act 76, 1965, p. 107; Imd. Eff. Jun. 24.

AN ACT to authorize counties, townships, villages, cities and any other governmental unit or entity to construct or build water supply systems and waste disposal systems by agreements or contracts with governmental units, entities or agencies of another state; or to enter into contracts or agreements with such governmental units or entities of another state for the use of such facilities.

The People of the State of Michigan enact:

123.381 Joint water supply and waste disposal systems; definitions.

Sec. 1. As used in this act:

(a) "Local unit of government" means any county, city, village, township, school

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district, port district, metropolitan district or other governmental unit or entity in or of this state; and in or of another state.

(b) "Waste disposal system" means sewers, intercepters or waste treatment facilities, and facilities for the collection and disposal of refuse, garbage, liquid and solid waste materials.

(c) "Water supply system" means installations including pipe lines and other facilities needed for the pumping, treatment and distribution of water supplies.

HISTORY: New 1965, p. 107, Act 76, Imd. Eff. Jun. 24.

123.382 Local governmental units; power to construct and operate with units in another state.

Sec. 2. Any local unit of government, either alone or jointly with another local unit or units of government, is hereby empowered and authorized to construct, maintain and operate waste disposal systems and water supply systems through agreements or contracts with local units of government located in another state upon such terms as may be agreed upon which are not contrary to any of the laws of this state. The contracts and agreements may provide for the location of the systems either within the boundaries of this state or within the boundaries of the other state.

HISTORY: New 1965, p. 107, Act 76, Imd. Eff. Jun. 24.

123.383 Local governmental units; agreements with units of another state for waste disposal or water supply services.

Sec. 3. Any local unit of government in this state, either singly or jointly with other local units of government, may enter into contracts and agreements with local units of government in another state for securing or providing of waste disposal or water supply services by means of appropriate facilities located in either state.

HISTORY: New 1965, p. 108, Act 76, Imd. Eff. Jun. 24.

123.384 Local governmental units; financing according law.

Sec. 4. Local units of government may finance the construction, maintenance and operation of such systems pursuant to any laws now existing in this state or such other laws as may be hereafter enacted.

HISTORY: New 1965, p. 108, Act 76, Imd. Eff. Jun. 24.

Act 301, 1969, p. 557; Eff. Mar. 20, 1970.

AN ACT authorizing municipalities owning or operating public utilities to make contributions and gifts as determined by its governing body.

The People of the State of Michigan enact:

123.391 Authorization for giving gifts and contributions; source; legislative approval.

Sec. 1. Any municipality owning or operating any public utility may authorize the giving of gifts or contributions from the operating revenues of the utility in such amounts and for such purposes as shall be determined by the governing body of the public utility to be in the public interest, subject to the approval of the legislative body of the municipality.

HISTORY: New 1969, p. 557, Act 301, Eff. Mar. 20, 1970.

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Act 203, 1931, p. 354; Eff. Sep. 18.

AN ACT to establish the liability of municipalities of this state for injuries sustained by persons drafted into service for such municipalities, and to provide the manner of payment of claims for such injuries.

The People of the State of Michigan enact:

123.401 Municipality, drafted person; definitions.

Sec. 1. The term "municipality" as used in this act shall be construed to include any township, city, village or county of this state.

The term "drafted person" as used in this act shall be construed to include any person commanded to assist any municipal official or employe authorized to command the assistance of bystanders in the performance of his duties as such municipal official or employe. In the case of the commanding of assistance in putting out fires, the term "drafted person" shall be construed to include any municipal fire department employe called to aid in putting out of a fire in any other municipality, which is not under a fire protection contract with the municipality operating such fire department.

HISTORY: CL 1948, 123.401.

123.402 Municipal liability for injuries to drafted person; basis of compensation.

Sec. 2. Any municipality of this state shall be liable for the injuries sustained by any person drafted to assist any official or employe of such municipality authorized to command the assistance of such drafted person in the performance of his duties as such municipal official or employe: Provided, however, That the compensation allowed such injured drafted person shall be on the same basis and equal to the compensation the drafting municipal official or employe would receive under the workmen's compensation act in case of a similar injury.

HISTORY: CL 1948, 123.402.

123.403 Payment of claim; law applicable.

Sec. 3. The payment of any claim arising against a municipality under this act shall be governed by the laws, ordinances and/or charter affecting such municipality in respect to the payment of claims.

HISTORY: CL 1948, 123.403.

Act 306, 1931, p. 498; Imd. Eff. Jun. 8.

AN ACT to authorize cities and villages of this state to create, acquire, control, and operate free employment bureaus.

The People of the State of Michigan enact:

123.451 Free employment bureau; power of city or village legislative body.

Sec. 1. The legislative body of any city or village in this state is hereby authorized to create, acquire, control, and operate free employment bureaus within the limits of said cities and villages, and may use for such purpose any property suitable therefor that is now or may at any time hereafter be owned, leased, or controlled by such city or village.

HISTORY: CL 1948, 123.451.

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123.452 Free employment bureau; purpose, name, registration fees, powers and duties.

Sec. 2. Such employment bureaus shall be established for the purpose of receiving applications of persons seeking employment and applications of persons seeking to employ labor. Such bureaus shall be designated and known as municipal or village public employment bureaus as the case may be. The cities and villages creating public employment bureaus authorized by this act may require the payment by all persons seeking employment a registration fee of not more than 1 dollar for the period of 1 year. For each fee there shall be issued a receipt which shall be in triplicate; 1 copy to be given to the applicant, 1 copy to be filed in the local office and 1 copy to be filed in the office of the department of labor and industry at Lansing. Every person paying such registration fee shall be entitled without further charge for the period of 1 year, to the service, of any municipal or village public employment bureau within the city or village wherein the applicant registered. It shall be the duty of such bureaus to use all diligence in securing the cooperation of employers of labor with the purpose and objects of said employment bureau. To this end it shall be competent for the legislative bodies of such cities and villages to advertise in the columns of newspapers or to use other mediums for such situations as it or its employes and agents have applicants to fill, and for such help as may be called for by employers. Said legislative bodies of the cities and villages may also advertise in a general way for the cooperation of large contractors and employers, in such trade journals or special publications as reach such employers, whether such trade journals are published within the city or village or not, and it may pursue such other methods as in their judgment will best tend to accomplish the purpose of this act: Provided, That all persons in charge of such public employment bureaus shall devote their entire time to the work of their office while receiving salary or wages from the city or village.

HISTORY: CL 1948, 123.452.

123.453 Free employment bureau; registration fund.

Sec. 3. All moneys received by the cities or villages under the provisions of section 2 of this act shall be set aside and shall be known as the public employment bureau registration fund and shall be used and disbursed under the direction of the legislative body of such city or village for the purpose of conducting, maintaining and improving such employment bureaus.

HISTORY: CL 1948, 123.453.

123.454 Free employment bureau; property.

Sec. 4. Any property acquired, owned, leased, controlled or occupied by such cities and villages for the purposes enumerated herein shall and is hereby declared to be acquired, owned, controlled or occupied for a public purpose and as a matter of public necessity, and such cities and villages shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public necessity and in accordance with the procedure as outlined in their charter or in the statutes of this state.

HISTORY: CL 1948, 123.454.

123.455 Free employment bureau; delegation of powers by legislative body.

Sec. 5. The powers herein enumerated may be delegated by the said legislative body of the city or village to any department, commission or agency of such city or village as may be designated or created by such legislative body.

HISTORY: CL 1948, 123.455.

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Act 179, 1967, p. 242; Imd. Eff. Jun. 30.

AN ACT to authorize a county, city, village or township to levy taxes and expend funds for youth centers.

The People of the State of Michigan enact:

123.461 Municipal youth centers; financing operations.

Sec. 1. Any county, city, township or village or combination of counties, cities, townships or villages may levy taxes and appropriate funds for operating centers open exclusively to youths under 21 years of age and aimed at curbing juvenile delinquency within the community.

HISTORY: New 1967, p. 242, Act 179, Imd. Eff. Jun. 30.

Act 170, 1933, p. 259; Imd. Eff. Jun. 28.

AN ACT to regulate the practice of taking bids and awarding contracts on public work construction, maintenance or repair work, except public buildings, and to provide a means of prohibiting those not qualified by experience, financial resources or any other valid reason from undertaking such public construction work.

The People of the State of Michigan enact:

123.501 Bidders on public works; statement of qualifications, notice of rejection.

Sec. 1. Any officer, board, commission, committee or department of the state, county, city, village, or township government authorized to receive bids for the construction, maintenance and/or repair of public works, except public buildings, may require that any person proposing to bid on any such work, submit a sworn statement at least 10 days before bids are opened on such standard form and in such detail and at such time as may be deemed necessary by said officer, board, commission, committee or department, setting forth his qualifications to satisfactorily carry out the work to be performed within the time specified for such performance. Said qualifications may be judged by said officer, board, commission, committee or department upon the basis of the proposed bidder's past performance on work of a similar nature, his financial resources and his construction equipment and facilities which he proposes to use on the work advertised for construction as disclosed by such sworn statement and any other available information and a determination made whether or not the proposed bidder is a suitable person to bid on the work. Any person determined not to be a suitable person to bid on any proposed work shall be notified in writing 5 days before bids are opened of such determination.

HISTORY: CL 1948, 123.501.

123.502 Bidders on public works; failure to file statement; rejection of bid.

Sec. 2. Should the prospective bidder fail to file the statement as required by said officer, board, commission, committee or department within the time specified, or should he, in the judgment of said officer, board, commission, committee or department be not qualified to bid on the work duly advertised, such officer, board, commission, committee or department may refuse to furnish such person with plans, specifications and proposals and may reject any bid made by him.

HISTORY: CL 1948, 123.502

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123.503 Allotment of work by public officers.

Sec. 3. It is further provided that when, in the judgment of such officer, board, commission, committee or department, the volume of work regularly advertised for construction would justify such course, bidders on public work may be rated according to their experience, equipment and resources and be furnished with proposals, plans and specifications for only such type and quantity of work as their qualifications as outlined in section 1 of this act would warrant.

HISTORY: CL 1948, 123.503.

123.504 Questionnaire and statement; confidentiality.

Sec. 4. Such questionnaire and statement, filed with said officer, board, commission, committee or department, shall be deemed to be confidential and shall not be imparted to any other person, firm or corporation without the consent of the bidder.

HISTORY: CL 1948, 123.504.

123.505 Refusal to furnish data to bidder; action against public officers prohibited.

Sec. 5. No action or proceeding of any nature or description in any court, except as hereinafter stated, shall lie against any officer of the state, county, municipal or township government because of his refusal to furnish plans, specifications or proposals or to award to any person a contract for the construction of a public work, maintenance or repair thereof for the satisfactory performance of which such person is not, in the opinion of the officer, fully qualified, or who has failed to comply with the provisions of this act.

HISTORY: CL 1948, 123.505.

123.506 Review of decision of public officers.

Sec. 6. Any person feeling himself aggrieved at the determination of any such officer, board, commission, committee or department shall have the right of appeal by mandamus, certiorari or other proper remedy to the supreme court of the state of Michigan, or in any proper case to any circuit court having jurisdiction.

HISTORY: CL 1948, 123.506.

123.507 False statements; penalty.

Sec. 7. Any person who wilfully makes, or causes to be made any false, deceptive or fraudulent statement in any questionnaire or statement required to be submitted under this act shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than 100 dollars, or more than 1,000 dollars, or to imprisonment in the county jail for a period not exceeding 6 months.

HISTORY: CL 1948, 123.507.

123.508 Person; definition.

Sec. 8. The word "person" as used herein, shall mean and include any individual, corporation, co-partnership, association or their lessees, trustees or receivers.

HISTORY: CL 1948, 123.508.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 10. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Act 4, 1955, p. 4; Imd. Eff. Mar. 3.

AN ACT to authorize certain cities and villages to annex certain lands submerged by waters of the great lakes or connecting waters; to provide the procedure of annexation; and to declare certain submerged lands part of political subdivisions without annexation. Am. 1961, p. 338, Act 205, Eff. Sep. 8.

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The People of the State of Michigan enact:

123.581 Great lakes submerged lands; annexation to cities and villages.

Sec. 1. Any incorporated city or village in this state, which has a boundary on waters of any of the great lakes, shall have the power to annex lands submerged by said waters if said lands are adjacent to its said boundary, the title to which is vested in a private owner pursuant to an act of the legislature of this state, which have no inhabitants, and are not at the time of the conveyance located in any township, city or village.

HISTORY: New 1955, p. 4, Act 4, Imd. Eff. Mar. 3.

123.582 Great lakes submerged lands; consent, amendment of charter.

Sec. 2. If the written consent of the owner or owners of such lands to the annexation shall be first procured by the city or village, said annexation shall be accomplished by amending the charter of said city or village to extend the boundaries of said city or village to include said submerged lands sought to be annexed.

HISTORY: New 1955, p. 4, Act 4, Imd. Eff. Mar. 3.

123.583 Great lakes submerged lands; automatic annexation to cities and villages.

Sec. 3. Whenever the boundary of any city or village in this state is the shore line of any of the Great Lakes or connecting waters, any filled-in submerged land which is attached to and an extension of the upland and which shall have been in existence for more than 15 years and any submerged islands not within any city or village but within 300 yards of the boundary of the city or village shall be included within the boundaries of the city or village without annexation proceedings and shall also be within the boundaries of the county and other units of government.

HISTORY: Add. 1961, p. 338, Act 205, Eff. Sep. 8.

Act 68, 1957, p. 74; Eff. Sep. 27.

AN ACT to provide for the regulation by county boards of supervisors of sanitation requirements and location of houseboats in the portion of the county outside incorporated cities and villages and to prescribe penalties for the violation of such regulation. Am. 1959, p. 17, Act 17, Imd. Eff. Apr. 30.

The People of the State of Michigan enact:

123.591 Houseboats; regulation of sanitation and location by counties.

Sec. 1. The boards of supervisors of any county in the portions of such county outside incorporated cities and villages may regulate by ordinance the sanitation requirements and the location of houseboats on those portions of the lakes, rivers, canals and waterways of the county under their control and jurisdiction.

HISTORY: New 1957, p. 74, Act 68, Eff. Sep. 27;—Am. 1959, p. 17, Act 17, Imd. Eff. Apr. 30.

123.592 Houseboats; designation of enforcement officer.

Sec. 2. The boards of supervisors in enacting ordinances under the provisions of this act shall designate the proper county and township official or officials whose duty it shall be to cooperate in the administration and enforcement of the provisions of ordinances so enacted.

HISTORY: New 1957, p. 74, Act 68, Eff. Sep. 27.

123.593 Penalty for violation.

Sec. 3. Any person violating the provisions of such ordinance is guilty of a misdemeanor.

HISTORY: Add. 1959, p. 17, Act 17, Imd. Eff. Apr. 30.

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Act 66, 1941, p. 76; Imd. Eff. May 8.

AN ACT validating all proceedings heretofore had by the governing body of any city in this state having a water front bordering on any navigable waters which has heretofore provided for the acquisition, improvement and repair of water front facilities and improvements and for the issuance of revenue bonds in payment of the cost thereof; validating provisions which may have been made by such cities for the operation and control of such facilities and improvements; granting to such cities the right to license ferries and similar commercial craft and to impose fees and charges for the use of public piers, wharves, docks and landing places therein and to regulate and license the construction, operation, maintenance and business of owning private piers, wharves, docks and landing places of boats, ferries and craft on and adjacent to any lands bordering on such navigable waters with power to cancel such licenses and to make rules and regulations governing the construction, operation and maintenance thereof; validating any agreements which may have been entered into for the leasing of any part of such facilities or improvements; authorizing the issuance of such bonds; and granting supervision and regulation by such cities of all lands located therein which border on such navigable waters, including lands owned by the state of Michigan.

The People of the State of Michigan enact:

123.601 City improvement of water front on navigable waters; revenue bonds; validation of proceedings.

Sec. 1. In all cases where the governing body of any city in this state, which has a water front bordering on any navigable waters, has heretofore adopted proceedings for the acquisition, improvement and repair of water front improvements consisting of dock, wharf, park, recreational and similar facilities, and for the issuance of the revenue bonds of such city payable solely from the revenues to be derived from the operation of such water front facilities, under the provisions of the charter of such city, or any general law of this state, or both, all such proceedings are hereby validated, ratified and confirmed, and the provisions thereof are hereby declared to be binding and effective in accordance with their terms.

HISTORY: CL 1948, 123.601.

123.602 Water front improvement; proceedings vesting control in board or commission; authority; license of ferries and docks, fees, cancellation.

Sec. 2. Where any such city whose bonds or obligations are validated by this act has adopted proceedings providing that its municipally owned parks, recreational and water front property, including its piers and docks, are to be controlled and operated by a board or commission other than the governing body of said city, such proceedings are validated, confirmed and declared to be effective, and such board or commission is hereby given control, regulation and supervision over all lands in such city bordering on such navigable waters, including such control over all of the water front portions of all land owned by the state of Michigan or any department or agency thereof as may be necessary to give the commission complete control, regulation and supervision over the use of any piers, docks, wharves, landing places and other structures on such lands for the embarking or disembarking of passengers carried for hire, all as may be provided in such proceedings, and such city, acting either through its governing body or through such board or commission, is hereby granted the right and authority to license ferries and boats and other commercial craft carrying passengers to and from such city and to impose fees and charges for the use of all public piers, wharves, docks and other landing places within the control of such governing body, board or commission under

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the provisions of this act or under proceedings taken by the governing body or the electors of such city and to regulate and license the construction, operation, maintenance and business of owning and operating private piers, wharves, docks and other landing places of boats, ferries and commercial craft on and adjacent to any lands bordering upon any such navigable waters and may base such license fees and charges upon the number of passengers using such piers, wharves, docks or landing places or may make such other charges, license fees and impositions in place of or in addition to those hereinbefore authorized as said governing body, board or commission shall from time to time determine. Said governing body, board or commission shall have the power to cancel any and all licenses issued for the operation of private ferries, boats, commercial craft, docks, piers, wharves or other landing places within its control for violation of rules and regulations, which it is hereby authorized to enact, covering the construction, operation and maintenance thereof.

HISTORY: CL 1948, 123.602.

123.603 Lease of water front facilities; validation.

Sec. 3. Where any such city has heretofore authorized the leasing of any of the water front facilities to be so acquired to a private individual, association or corporation, such authorization is hereby validated and confirmed and such city is authorized to execute and enter into such lease and the terms of such lease are hereby validated and confirmed.

HISTORY: CL 1948, 123.603.

123.604 Revenue bonds; city authorized to issue.

Sec. 4. Any such city, the governing body thereof, and its officials are hereby authorized to issue the bonds referred to in section 1 hereof, and to that end to make such changes in said proceedings and to adopt such additional proceedings and to do and perform such acts and things as may be reasonably necessary or convenient to the issuance of such bonds.

HISTORY: CL 1948, 123.604.

Sec. 5. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 6. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 37, 1961, p. 37; Eff. Sep. 8.

AN ACT permitting cities, villages and townships, or any combination thereof, to contract for assessing services.

The People of the State of Michigan enact:

123.621 Assessing services; cities, villages, townships.

Sec. 1. Any 2 or more cities, villages or townships, or any combination thereof, may contract jointly for employing an independent appraisal firm to make township, village and city appraisals or to assist the supervisors and assessing officials as directed by the contracting governing boards and councils. Expenses shall be paid from the general funds of the contracting governing bodies pursuant to their contractual agreement.

HISTORY: New 1961, p. 37, Act 37, Eff. Sep. 8.

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Act 200, 1957, p. 249; Eff. Sep. 27.

AN ACT to provide for the creation by 2 or more municipalities of an intermunicipality committee for the purpose of studying area problems; and to provide authority for the committee to receive gifts and grants.

The People of the State of Michigan enact:

123.631 Intermunicipality area problem study committee; municipalities, definition.

Sec. 1. As used in this act, "municipalities" means any city, village, township, chartered township or other incorporated political subdivision of this state.

HISTORY: New 1957, p. 249, Act 200, Eff. Sep. 27.

123.632 Intermunicipality study committee; organization, purposes.

Sec. 2. The governing bodies of any 2 or more municipalities, by resolution, may establish and organize an intermunicipality committee, to be known as the intermunicipality committee, for the purpose of studying area governmental problems of mutual interest and concern, including such matters as facility studies on sewers and sewage disposal, water, drains, roads, rubbish and garbage disposal, recreation and parks, and ports, and to formulate recommendations for review and action thereon by the member governing bodies.

HISTORY: New 1957, p. 249, Act 200, Eff. Sep. 27.

123.633 Intermunicipality study committee; surveys, recommendations, reports.

Sec. 3. The intermunicipality committee may employ personnel to coordinate and conduct all types of surveys and studies relating to the mutual problems of its member municipalities or may enter into agreements for such surveys and studies to be conducted by other public or private agencies. It shall adopt, by resolution of a majority of its full membership, any recommendation for submission to the several member governing bodies. It may publicize its purposes, objectives and findings, and may distribute reports thereon. It shall make an annual report of its activities to the several member governing bodies.

HISTORY: New 1957, p. 249, Act 200, Eff. Sep. 27.

123.634 Intermunicipality study committee; funds.

Sec. 4. For the purpose of providing funds to meet the expenses of the intermunicipal committee, the member governing bodies, by resolution, may authorize the allocation of municipal funds for such purpose. The proportion of the total amount of funds to be provided by each member municipality shall be based on the recommendation of the intermunicipality committee, or shall be provided for in the bylaws of the committee, which shall have been approved by the member governing bodies.

HISTORY: New 1957, p. 249, Act 200, Eff. Sep. 27.

123.635 Intermunicipality study committee; contributions of services of personnel, equipment, office space.

Sec. 5. Services of personnel, use of equipment and office space and other necessary services may be accepted from member municipalities and may be considered as a part of the financial support of that municipality.

HISTORY: New 1957, p. 249, Act 200, Eff. Sep. 27.

123.636 Intermunicipality study committee; gifts and grants from governmental units and from private sources.

Sec. 6. The intermunicipal committee may accept gifts and grants from the federal government, state government and local governments, also from private individuals,

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foundations or agencies, if the grants are made for furtherance of the objectives for which the committee is established.

HISTORY: New 1957, p. 250, Act 200, Eff. Sep. 27.

Act 217, 1957, p. 274; Imd. Eff. Jun. 6.

AN ACT to provide for the creation by 2 or more counties of an intercounty committee for the purpose of studying area problems; and to provide authority for the committee to receive gifts and grants.

The People of the State of Michigan enact:

123.641 Intercounty area problem study committees; establishment, recommendations.

Sec. 1. The boards of supervisors of any 2 or more counties, by resolution, may establish and organize an intercounty committee, to be known as the supervisors' intercounty committee, for the purpose of studying area governmental problems of mutual interest and concern, including such matters as facility studies on sewers and sewage disposal, water, drains, roads, rubbish and garbage disposal, recreation, zoning, parks and ports, and to formulate recommendations for review and action thereon by the member county boards of supervisors.

HISTORY: New 1957, p. 274, Act 217, Imd. Eff. Jun. 6.

123.642 Intercounty study committee; surveys, findings, reports.

Sec. 2. The supervisors' intercounty committee may employ personnel to coordinate and conduct all types of surveys and studies relating to the mutual problems of its member counties or may enter into agreements for such surveys and studies to be conducted by other public or private agencies. It shall adopt, by resolution of a majority of its full membership, any recommendation for submission to the several member county boards of supervisors. It may publicize its purposes, objectives and findings, and may distribute reports thereon. It shall make an annual report of its activities to the several member county boards of supervisors.

HISTORY: New 1957, p. 274, Act 217, Imd. Eff. Jun. 6.

123.643 Intercounty study committee; expenses.

Sec. 3. For the purpose of providing funds to meet the expenses of the supervisors' intercounty committee, the member county boards of supervisors, by resolution, may authorize the allocation of county funds for such purpose. The proportion of the total amount of funds to be provided by each member-county shall be based on the recommendation of the supervisors' intercounty committee, or shall be provided for in the bylaws of the committee, which shall have been approved by the member county boards of supervisors.

HISTORY: New 1957, p. 275, Act 217, Imd. Eff. Jun. 6.

123.644 Intercounty study committee; contributions of services of personnel, equipment, office space.

Sec. 4. Services of personnel, use of equipment and office space, and other necessary services may be accepted from member counties and may be considered as a part of the financial support of that county.

HISTORY: New 1957, p. 275, Act 217, Imd. Eff. Jun. 6.

123.645 Intercounty study committee; gifts and grants from governmental units and from private sources; approval.

Sec. 5. The supervisors' intercounty committee may apply for and accept gifts, contributions and grants from the federal government, state government and local govern-

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ments, also from private individuals, foundations or agencies, if the grants are made for furtherance of the objectives for which the committee is established. Any application shall be approved by the member county boards of supervisors.

HISTORY: New 1957, p. 275, Act 217, Imd. Eff. Jun. 6;—Am. 1965, p. 712, Act 362, Imd. Eff. Jun. 24.

Act 70, 1955, p. 114; Eff. Oct. 14.

AN ACT to authorize cities to acquire and operate exhibition areas for commercial, industrial and agricultural products; to provide for the issuance of bonds to finance the cost thereof; to authorize the fixing and collecting of fees and other charges for the use of facilities therein; and to authorize the making of reasonable rules and regulations relative to the public use of facilities therein.

The People of the State of Michigan enact:

123.651 Exhibition areas for display of commercial, industrial, and agricultural products.

Sec. 1. Any city may acquire, construct, improve, enlarge, extend and operate, within or without its corporate limits, exhibition areas for the display of commercial, industrial and agricultural products and parking facilities used in connection therewith. Such exhibition areas shall include all necessary real or personal property used or useful in connection therewith and including, but not by way of limitation, exhibition buildings, community buildings, stadiums, auditoriums, arenas, convention halls, recreational facilities and parking facilities used in connection therewith. Such facilities at any one location may be operated independently or jointly with those at one or more other locations. The legislative body of the city is hereby authorized and empowered to purchase, and to accept gifts and devises of real estate for the purposes of the aforementioned exhibition areas.

HISTORY: New 1955, p. 114, Act 70, Eff. Oct. 14.

123.652 Exhibition areas; appropriation.

Sec. 2. The legislative body of the city is authorized and empowered to make appropriations for the operation, improvement and maintenance of such exhibition areas, as herein authorized, as shall have been acquired.

HISTORY: New 1955, p. 114, Act 70, Eff. Oct. 14.

123.653 Exhibition areas; operation and maintenance.

Sec. 3. The legislative body of the city may provide by ordinance or resolution for the operation and maintenance of any such exhibition area by a board, commission or other agency of the city in manner to be specified in such ordinance or resolution.

HISTORY: New 1955, p. 114, Act 70, Eff. Oct. 14.

123.654 Exhibition areas; fees, rules.

Sec. 4. The legislative body of the city is authorized to establish by ordinance, fees or charges for the use of the facilities in any exhibition area, admission fees and other charges for use of such area, and to make reasonable rules and regulations for the use of said area or areas, and penalties for the violation thereof.

HISTORY: New 1955, p. 114, Act 70, Eff. Oct. 14.

123.655 Exhibition areas; bonds, appropriation of revenues.

Sec. 5. Any city may issue bonds pledging the full faith and credit of the city for the purpose of acquiring any facility or facilities herein authorized when such issue of bonds has been approved by a 3/5 vote in favor thereof of the electors of such city voting thereon at any regular or special election. The issue and sale of such bonds shall be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, be-

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ing sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948: Provided, That the legislative body of the city shall appropriate annually for the payment of principal and interest on such bonds, sufficient of the revenues derived from the operation of the exhibition area or areas for which bonds are issued above the amount required to meet the reasonable expenses of administration, operation and maintenance of such facilities.

HISTORY: New 1955, p. 114, Act 70, Eff. Oct. 14.

Act 185, 1956, p. 341; Imd. Eff. Apr. 24.

AN ACT to authorize cities to establish market authorities; to provide the powers and duties of such authorities; to provide that such authorities are not tax exempt; to authorize agreements with the United States; and to provide penalties for violations.

The People of the State of Michigan enact:

123.671 Market authority act; short title.

Sec. 1. This act shall be known and may be cited as "The market authority act of 1956".

HISTORY: New 1956, p. 341, Act 185, Imd. Eff. Apr. 24.

123.672 Market authority; construction of act.

Sec. 2. This act shall be construed as cumulative authority for the exercise of the powers herein granted and shall not be construed to repeal any existing laws with respect thereto. The powers conferred by this act shall not be affected or limited by any other statute or by any charter, except as herein otherwise provided.

HISTORY: New 1956, p. 341, Act 185, Imd. Eff. Apr. 24.

123.673 Market authority; establishment, powers, areas.

Sec. 3. Any city, by ordinance, may establish a market authority, hereinafter also referred to as "the authority", which shall be a corporate body having the responsibility to plan, establish, develop and supervise a public market for the reception, handling, storage and sale at wholesale of farm and food products. Any such public market shall be divided into 2 distinct areas. One area shall be devoted exclusively to facilities for the wholesale marketing of farm products as hereinafter defined. The other area shall be devoted to the wholesale marketing of food products and the authority shall have no interest in such area, or any part thereof, which is actually made use of but said authority may limit the type and nature of the use to be made of the whole or any part thereof in its conveyance of the real property which is sold to any person, firm, partnership or corporation. The authority shall have no interest in any improvements on the land or any part thereof of the area known as the food products marketing area.

Definitions.

"Farm products" as used in this act shall mean those products of agriculture which are unprocessed. "Food products" as used in this act shall mean those foods which have been processed.

Site; board of directors; financing; profits; construction, repair, ornamentation.

Said market shall be located within or without the corporate limits of said city and said authority shall be authorized to purchase, acquire, construct, improve, enlarge, extend and/or repair said market and to furnish the services, facilities and commodities of said market to users within or without its corporate limits and to issue revenue bonds to carry out said purposes. Said ordinance shall fix the method of selecting the board of directors of said authority, the number thereof, which shall not be less than 5

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nor more than 9, the qualifications of members of said board and their terms and compensation, if any. A city establishing a market authority as herein provided shall have power to appropriate such moneys from the general fund as may be required in addition to funds available from revenue bonds of the authority to insure the successful maintenance and operation of said market. In the event that any profit shall accrue from the operation of said market over and above payments required to be made on principal and interest on the bonds or for funds required to be established for the payment of said bonds and above costs of operation, such profit shall be transferred to the general fund of the city. Any construction, repair or ornamentation as respects the market shall be governed by the provisions of Act No. 187 of the Public Acts of 1905, as amended, being sections 570.101 to 570.105, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 341, Act 185, Imd. Eff. Apr. 24.

123.674 Market authority; board of directors, powers.

Sec. 4. The board of directors of the market authority shall have the following powers:

(1) To acquire by purchase, lease, or otherwise such land or any interest in land, or other property, real or personal, as may be necessary to the operation of the market and hold said property in the name of the authority, and to mortgage, sell, lease, rent, exchange, or otherwise dispose of any such property or any part thereof as it may deem advisable: Provided, however, That no real estate shall be sold unless the sale is approved by the governing body of the city and the trustee of the bondholders: Provided further, however, Of that property which is to remain within the market area the market authority shall sell only that property which is outside of the wholesale farm products market and shall reserve the right in any conveyance made of such property to regulate its use and control said property in order to promote the purposes of the market authority and protect public health: Provided further, That such sale of this property shall be made only to persons who plan to use such property for the purpose of wholesale food products marketing or for the purpose of constructing and operating business establishments such as restaurants, filling stations, garages and warehouses for the convenience of the customers of the markets.

(2) To plan, build, construct, or operate, or cause to be built, constructed, or operated, such buildings, structures, equipment, and appurtenances thereto as may be necessary for the operation of the market.

(3) To borrow money, make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations (herein called "bonds") of the authority, said bonds to have a maturity date not longer than 40 years from the date of issue, and to secure the payment of such bonds or any part thereof by pledge or mortgage of all or any of its revenues, receipts or other assets, real or personal, and to make such agreements with the purchasers or holders of such bonds, or with others in connection with any such bonds (whether issued or to be issued), as the authority shall deem advisable, and in general to provide for the security for said bonds and the rights of the holders thereof: Provided, however, That no obligations incurred by the authority shall be a debt of the city, or a pledge of the credit or taxing power of the city.

(4) To employ a market manager qualified to operate a market of the type contemplated by the authority and such additional employees as may be necessary for the management and operation of the market.

(5) To fix the salaries of the market manager and any other authorized employees of the market.

(6) To fix, alter, charge and collect rentals and charges for stores, stalls, space, buildings, equipment and other appurtenances, privileges, and services furnished or per-

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formed in or in connection with the market for the purpose of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance, and operation of its properties, the payment of the principal and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations; but the rentals and charges shall not be designed to render a profit to the authority.

(7) To promulgate reasonable rules or regulations, subject to approval by the governing body of the city, relating to the use of the market, including without limiting the generality of the foregoing, rules and regulations relating to hours of business, sanitation, traffic, and such other matters as are normally incidental to the proper management of a market; but no such rules or regulations shall fix or regulate prices, profits, or types of farm and food products dealt in.

(8) In its discretion, and after due notice to interested persons and an opportunity to be heard, to suspend or revoke any or all rights or privileges of any person violating the rules and regulations provided for in subdivision (7) above, enjoyed in connection with his activities in the market.

(9) To make contracts of any name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(10) To enter into and maintain contracts for all such types of insurance as it may deem necessary to protect the authority against loss.

(11) To enter into contracts of group insurance for the benefit of its employees, and to set up a retirement or benefit fund for such employees.

(12) To adopt and use a corporate seal.

(13) To make by-laws for the management and regulation of its affairs.

(14) To sue and be sued in its corporate name.

(15) To delegate to the market manager or other officers of the authority such duties and responsibilities in relation to the operation of the market as it may deem reasonably necessary.

(16) In general, to do such other acts and things as may be reasonably necessary or convenient to carry out the powers hereinabove enumerated, and to carry on the operations of a wholesale market for farm and food products in accordance with the general purposes of this act and the exercise of the powers herein granted in the construction, operation and maintenance of the market shall be deemed and held to be an essential governmental function, except that this provision shall not be construed to confer governmental tort immunity upon the market authority.

HISTORY: New 1956, p. 342, Act 185, Imd. Eff. Apr. 24.

123.675 Market authority; limitations on operations.

Sec. 5. The following limitations shall govern the operations of the authority and its board of directors:

(1) The authority shall be subject to all the zoning, building, fire, sanitary, health and other police ordinances and regulations of the state and political subdivisions in which it is established.

(2) The authority shall have no power to discriminate against the sale on the market of any farm or food products, or against any producer of such products on account of county, state or political subdivisions in which any such products are produced, or on account of the legal status of the producer or other person engaged in the marketing of any such products, or on account of the conditions of employment or the nature of the labor employed in the production or marketing of such products or on account of the method of transportation; but the authority shall take every reasonable precaution to prevent any such discrimination.

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(3) The authority shall have no power to acquire, construct, maintain, or operate a market which is not operated primarily for the purpose of handling farm and food products at wholesale.

(4) No member of the board of directors shall be interested directly or indirectly in any transaction with the authority except in connection with his normal business operations in the market.

(5) No authority shall itself engage directly or indirectly in the purchase or sale of farm or food products, or engage in any business other than that of managing the market.

HISTORY: New 1956, p. 343, Act 185, Imd. Eff. Apr. 24.

123.676 Market authority; powers.

Sec. 6. The authority shall have power:

(1) To issue bonds or notes for the purpose of acquiring and constructing markets. Said bonds or notes shall have such maturities, redemption rights shall bear such interest and shall have such other details as may be determined by the authority. Said bonds or notes shall be payable from the revenues of the authority. In the event that the authority secures mortgage insurance from the United States of America or any officer, agency or instrumentality thereof, the authority may sell its bonds or notes at private sale and may, as additional security for the payment of its bonds or notes, execute a mortgage on the real estate or personal property owned or to be acquired by the authority for the benefit of the holders of its bonds. Said mortgage may make provision for mortgaging or pledging the real estate and personal property of the authority or any part thereof, whether then owned or thereafter acquired, for the benefit of the holders of the bonds of the authority. Said mortgage may pledge or assign the revenues of the authority or any part thereof. Said mortgage may contain such provisions for the protection of the bondholders, including the right to sell real estate or personal property of the authority mortgaged or pledged, as the authority may deem necessary. Said mortgage may contain such provisions relating to acquisition of the market improvements, the operation and maintenance of the same and the custody and safeguarding of its funds as the authority may deem necessary and which are not in violation of law. Said mortgage may provide for the rights and remedies of the bondholders. The authority may provide for execution of said mortgage in the ordinance authorizing issuance of the bonds.

(2) As an additional or alternative method of acquiring and constructing markets, the authority shall have power to issue revenue bonds and such bonds shall be issued pursuant to the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948, known as the revenue bond act of 1933, and the provisions of said act shall be controlling in all matters with respect to said bonds as regards terms, issuance, redemption, rights of bondholders in event of default, and all other matters affecting said bonds and, insofar as applicable, the operation of the public market financed from the proceeds of said bonds.

HISTORY: New 1956, p. 344, Act 185, Imd. Eff. Apr. 24.

123.677 Market authority; acquisition of property, market deemed public improvement.

Sec. 7. Any authority established under this act may purchase, lease, accept by gift or devise, private property for the public purposes herein set forth and for no other purposes. The market so established shall be deemed to be a public improvement under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 344, Act 185, Imd. Eff. Apr. 24.

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123.678 Market authority; property subject to taxation.

Sec. 8. The real and personal property owned by the authority shall be subject to taxation.

HISTORY: New 1956, p. 344, Act 185, Imd. Eff. Apr. 24.

123.679 Market authority; audit, filing, violation.

Sec. 9. Immediately after the close of each fiscal year, every authority established pursuant to this act shall cause an audit to be made of its operations for the fiscal year. The audit shall be made by a certified public accountant, or firm of accountants not regularly employed by the authority for its accounting purposes. Within 90 days after the close of its fiscal year each authority shall file with the state department of agriculture and with the governing body of the city creating the authority, a copy of the audit together with names of the officers and directors thereof. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor.

HISTORY: New 1956, p. 344, Act 185, Imd. Eff. Apr. 24.

123.680 Market authority; agreement with secretary of agriculture of United States for mortgage insurance.

Sec. 10. The board of directors of the authority shall be authorized to enter into agreements with the secretary of agriculture of the United States, hereinafter called "the secretary", under any applicable federal law providing for the insurance of mortgages for the financing of public wholesale market facilities, that rentals and other charges for the use of such market facilities will be established at reasonable levels approved by the secretary and designed to meet the obligations, defray the costs of maintaining and operating the market facility, and provide reasonable reserves; that any substantial alterations of the market facility will be made only with approval of the secretary; that reports will be made to the secretary at such intervals and giving such information concerning the market facility as the secretary may require and that the books and records of the market facility will be available for examination by the secretary at its offices during business hours; that title to the market facility, or any part thereof, will not be transferred or encumbered, or leased for any purpose not related to the operation of the market, and that vacant land of the market facility will not be leased for a period longer than 1 year, except with the approval of the secretary; that the maximum charges which may be received for the use of the market facility shall be subject to approval of the secretary during the period while the insurance of such mortgages is in force and effect; and such other agreements as shall be necessary to comply with the provisions of such federal mortgage insurance law.

The authority may pay to the United States such sums of money each year as may be required for mortgage insurance. Said payments shall be made from the revenues of the authority.

HISTORY: New 1956, p. 345, Act 185, Imd. Eff. Apr. 24.

Act 17, 1942 (2nd Ex. Ses.), p. 56; Imd. Eff. Feb. 26.

AN ACT to authorize certain cities to operate transportation facilities outside their corporate limits and to provide for the levy and collection from such cities of certain privilege fees upon certain of such operations, for the disposition of such fees and for their use for highway purposes.

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The People of the State of Michigan enact:

123.701 Municipal transportation utility; operation beyond city limits.

Sec. 1. Any city of this state, which may now or may hereafter operate any public utility pursuant to law for the purpose of supplying bus or street railway transportation, may by resolution of its legislative body provide for operating transportation facilities without its corporate limits for a distance of 25 miles from any portion of its corporate limits, notwithstanding any other limitation of any statute or its charter to the contrary, if according to the last preceding United States census, it had a population of not less than 25,000 inhabitants.

HISTORY: CL 1948, 123.701.

123.702 Privilege fees to be paid by city.

Sec. 2. There shall be assessed against and collected from every such city for each mile which a vehicle of such city shall operate as a common carrier while without both the limits of such city and the limits of any other city, a mileage fee based on its gross weight as hereinafter defined, determined as follows:

(1) For motor vehicles with a gross weight of 11,000 pounds or less, 1 mill per mile of such operation;

(2) For motor vehicles with a gross weight of more than 11,000 pounds and not in excess of 15,000 pounds, 1 1/2 mills per mile of such operation;

(3) For motor vehicles with a gross weight of more than 15,000 pounds, 2 mills per mile of such operation.

The gross weight of each passenger carrying motor vehicle shall be the weight of such motor vehicle plus the amount in pounds arrived at by multiplying the number of passengers capable of being seated, including the driver, in such vehicle by 150 pounds.

HISTORY: CL 1948, 123.702.

123.703 Monthly report; payment of fees to state treasurer; deposit.

Sec. 3. Within 30 days after the expiration of each calendar month, the officials in charge of the operation by each such city as a common carrier shall file with the treasurer of the state of Michigan a sworn statement showing the gross weight of and the miles of operation by each vehicle in said calendar month for which such privilege fees are hereby assessed, and shall pay the state treasurer the total amount of such fees hereby assessed for said calendar month. The state treasurer shall deposit the same to the credit of the highway fund, and it shall become a part thereof to be used for highway purposes.

All books and records of each such city concerning such operations shall be available for examination and audit by the auditor general of the state at reasonable times.

HISTORY: CL 1948, 123.703.

123.704 Expiration date of act.

Sec. 4. This act shall expire 1 year after the termination of the state of war now existing between the United States and each of the various other nations or countries of the world with which this country is now at war or with which the country may be at war prior to the cessation of the present hostilities.

HISTORY: CL 1948, 123.704.

Act 99, 1933, p. 135; Imd. Eff. Jun. 2.

AN ACT to authorize contracts and agreements of incorporated villages, townships and cities for the purchase of lands and property for public purposes; to validate such contracts or agreements heretofore entered into; to provide for the payment of the

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purchase price thereof; and to prescribe the use of such lands and property. Am. 1937, p. 385, Act 242, Imd. Eff. Jul. 21;—Am. 1969, p. 479, Act 247, Imd. Eff. Aug. 11.

The People of the State of Michigan enact:

123.721 Village, township, and city property purchased on installment plan; validation of contracts, taxes, surplus lands.

Sec. 1. (1) The legislative body of an incorporated village, township or city may enter into any contract or agreement for the purchase of lands, property or equipment for public purposes, to be paid for in installments. Any contract or agreement entered into, before this amendatory act of 1969 takes effect, by the legislative body of any incorporated village, township or city for the purchase of lands, property or equipment for public purposes, to be paid for in installments, is validated and made legal for all purposes. The outstanding balance of all such purchases, made both before and after this amendatory act of 1969 takes effect, exclusive of interest, shall not exceed 1-1/4% of the equalized assessed value of the real and personal property in such village, township or city at the date of such contract or agreement. The contracts or agreements, and the purchase of lands, property or equipment thereunder, shall not be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

Payments.

(2) The legislative body of any such village, township or city may include in its budget and pay such sum or sums as may be necessary each year to meet the payments of any such installments, and the interest thereon, when and as the same shall become due, including overdue installments.

Taxes, limitation.

(3) The authority granted in this act shall not be construed to authorize the legislative body of a city, village or township to levy taxes in excess of statutory or charter limitations without the approval of the electors.

Federal surplus lands.

(4) The limitation of the aggregate amount of a contract imposed by section 1 of chapter 3 of Act No. 202 of the Public Acts of 1943, as amended, being section 133.1 of the Compiled Laws of 1948, shall not be applicable to a contract for purchase of lands declared surplus by the United States government or one of its agencies, subject to the prior approval of such contract by the municipal finance commission.

HISTORY: Am. 1937, p. 385, Act 242, Imd. Eff. Jul. 21;—CL 1948, 123.721;—Am. 1967, p. 618, Act 290, Imd. Eff. Aug. 1;—Am. 1969, p. 479, Act 247, Imd. Eff. Aug. 11.

123.722 Village, township and city property; use and leasing.

Sec. 2. Such property may be used for any useful public purpose, and by resolution of the legislative body of any village and/or township and/or city, any portion of any real estate or building, may be leased or otherwise let to the local school board for educational purposes, and may also be rented by day to day agreement for educational, charitable or entertainment purposes. The revenue from any such rentals shall be applied in the payment of any installment, and/or the interest thereon, until the purchase price of such property is wholly paid for, or for the maintenance and improvement of the same. Thereafter such revenues shall be covered into the general fund of such village and/or township and/or city.

HISTORY: Am. 1937, p. 386, Act 242, Imd. Eff. July 21;—CL 1948, 123.722.

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123.723 Village, township and city property; control and maintenance.

Sec. 3. The legislative body of any such village and/or township and/or city shall at all times have control of said property and shall maintain the same for public use and purposes.

HISTORY: Am. 1937, p. 386, Act 242, Imd. Eff. July 21;—CL 1948, 123.723.

Act 185, 1957, p. 227; Imd. Eff. Jun. 4.

AN ACT to authorize the establishing of a department and board of public works in counties; to prescribe the powers and duties of any county subject to the provisions of this act; to authorize the issuance and payment of bonds; and to prescribe a procedure for special assessments and condemnation. Am. 1967, p. 79, Act 63, Imd. Eff. Jun. 20.

The People of the State of Michigan enact:

CHAPTER 1.

GENERAL PROVISIONS

123.731 County public works; definitions.

Sec. 1. As used in this act:

(a) "Members elect" means when applied to the board of commissioners, both members elected and appointed.

(b) "Acquire" means acquisition by purchase, construction or any other method.

(c) "Water supply system" means all plants, works, instrumentalities and properties, used or useful in connection with obtaining a water supply, the treatment of water or the distribution of water.

(d) "Sewage disposal system" means all sanitary sewers, storm sewers, combined sanitary and storm sewers, plants, works, instrumentalities and properties, used or useful in connection with the collection, treatment or disposal of sewage including storm water, sanitary sewage or industrial wastes.

(e) "Refuse system" means disposal, including all equipment and facilities for storing, handling, processing and disposing of refuse, including plants, works, instrumentalities and properties, used or useful in connection with the salvage or disposal of refuse and used or useful in the creation, sale or disposal of by-products, including rock, sand, clay, gravel or timber.

(f) "Refuse" means putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and industrial wastes.

(g) "Lake improvements" means any improvements now or hereafter authorized by law to be made to any waters of the state by any municipality or any board or body which may be established by a municipality for such purpose.

(h) "Municipality" means any county, city, village, township, charter township, drainage district or authority existing under the laws of the state.

(i) "Resolution" means a resolution or an ordinance if the governing body of any municipality chooses to act by ordinance rather than by resolution.

(j) "Governing body" means, in the case of a county, the board of commissioners; in the case of a city, the council, common council, commission or other body having legislative powers; in the case of a village, the council, common council, commission, board of trustees or other body having legislative powers; in the case of a township, the township board; in the case of a charter township, the township board; in the case

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of a drainage district, the drain commissioner or the drainage board; and in the case of an authority, the body in which is lodged general governing powers.

HISTORY: New 1957, p. 227, Act 185, Imd. Eff. Jun. 4;—Am. 1964, p. 46, Act 42, Eff. Aug. 28;—Am. 1967, p. 79, Act 63, Imd. Eff. Jun. 20;—Am. 1970, p. 631, Act 234, Imd. Eff. Dec. 3.

CITED IN OTHER SECTIONS: Sections 123.731 to 123.786 are cited in § 280.396.

123.732 Department of public works; establishment; board of public works; powers, membership, appointments, tenure, removal, rules and regulations, compensation.

Sec. 2. The board of supervisors of any county, by resolution adopted by a 2/3 vote of its members elect, may establish a department of public works for the administration of the powers conferred upon the county by the terms of this act. However, the provisions of this act as to refuse systems and refuse are not applicable to any county having a population of more than 400,000. The department of public works shall be under the general control of the board of supervisors of the county and under the immediate control of a board of public works consisting of 3, 5 or 7 members who shall be appointed or removed by the board of supervisors. Members of the board of supervisors may be appointed as members of the board of public works. All such appointments heretofore made are hereby validated. Tenure of office on the board of public works shall automatically terminate whenever he is no longer a member of the board of supervisors. The size of the board of public works shall be determined by the board of supervisors. In the first instance, in case of a 3-member board, members shall be appointed for terms ending 1 year, 2 years and 3 years from the following January 1; in the case of a 5-member board, 1 member shall be appointed for a term ending 1 year, 2 members for a term ending 2 years, and 2 members for a term ending 3 years, from the following January 1; and in the case of a 7-member board, 2 members shall be appointed for a term ending 1 year, 2 members for a term ending 2 years and 3 members for a term ending 3 years, from the following January 1. Thereafter each member shall be appointed for a term of 3 years. Each term shall expire at noon on January 1 but each member shall hold office until his successor is appointed and qualifies. Any vacancy shall be filled by the board of supervisors for the unexpired term. If there is a county drain commissioner in any county having a department of public works, then he shall be appointed as a member of the board of public works, provided his membership on the board shall terminate when he ceases to be county drain commissioner. Notwithstanding any other provisions of this act, the board of supervisors, by resolution adopted by a 2/3 vote of all its members, may designate or remove the board of county road commissioners to be the board of public works instead of the board of public works as provided for in this section, and after the adoption of the resolution the board of county road commissioners shall be the board of public works for that county with all the authority, powers and duties conferred by law upon the board of public works. The board of public works shall be deemed an agency of the county. The board of supervisors shall make such rules and regulations in respect to the department of public works as it shall deem advisable. The members of the board of public works shall not be deemed to be full-time officers of the county and the duties of the county drain commissioner or of any county road commissioner who serves on the board of public works are declared to be additional and separate duties not compensated for by the established salary or per diem of the commissioner. The compensation of all members shall be fixed by the board of supervisors.

HISTORY: New 1957, p. 227, Act 185, Imd. Eff. Jun. 4;—Am. 1959, p. 17, Act 18, Eff. Mar. 19, 1960;—Am. 1961, p. 363, Act 214, Eff. Sep. 8;—Am. 1967, p. 80, Act 63, Imd. Eff. Jun. 20.

123.733 Board of public works; officers.

Sec. 3. The board of public works shall elect each year during the month of January from its own membership, a chairman, a vice-chairman and a secretary, and also at

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such time shall elect a deputy secretary who may or may not be a member of the board.

HISTORY: New 1957, p. 228, Act 185, Imd. Eff. Jun. 4.

123.734 Board of public works; meetings, record, quorum.

Sec. 4. Any action taken by the board of public works shall be by motion or resolution adopted by the affirmative vote of a majority of its full membership. The board of public works shall keep a record of the proceedings taken at each meeting thereof, which record shall be signed by the secretary or in case of his absence at any meeting by the deputy secretary or other person acting as secretary for the meeting. A majority of its full membership shall be necessary for a quorum. It shall establish the time of its regular meetings which shall be held at least once each month. Special meetings may be called by the chairman or any 2 members thereof upon written notice served on each member or left at his place of residence, at least 24 hours prior to such meeting. Members may waive notice of any special meeting either before or after the holding thereof.

HISTORY: New 1957, p. 228, Act 185, Imd. Eff. Jun. 4.

123.735 Board of public works; expenses, appropriation.

Sec. 5. The board of supervisors shall provide each year in its annual budget for the expenses of the department of public works and the board of public works shall be limited in its expenditures to the amount so appropriated unless a further appropriation shall be made by the board of supervisors.

HISTORY: New 1957, p. 228, Act 185, Imd. Eff. Jun. 4.

123.736 Board of public works; director; project costs; civil service.

Sec. 6. The board of public works shall have authority to hire a director of public works, whose salary shall be fixed by the board of public works within the budget appropriation. The board of public works shall have power to employ such professional and lay personnel as it shall deem advisable, subject however to budget appropriations but no budget appropriation shall be necessary where services are employed in connection with acquiring any project and are to be included in the project cost and payable from the proceeds of bonds or special assessments. The cost of any project and of operating and maintaining the same, shall include amounts sufficient to cover the general administrative costs pertaining thereto. The provisions of this section shall be subject to any applicable statutory provisions relating to civil service.

HISTORY: New 1957, p. 228, Act 185, Imd. Eff. Jun. 4.

123.737 Board of public works; powers.

Sec. 7. Any county establishing a department of public works shall have the following powers to be administered by the board of public works subject to any limitations thereon:

(a) To acquire a water supply system within any 1 or more areas in the county and to improve, enlarge, extend, operate and maintain such system.

(b) To acquire a sewage disposal system within any 1 or more areas in the county and to improve, enlarge, extend, operate and maintain such system.

(c) To acquire a refuse system within any 1 or more areas in the county and to improve, enlarge, extend, operate and maintain the system.

(d) To make lake improvements within any 1 or more areas in the county and to improve, enlarge, extend, operate and maintain such improvements.

HISTORY: New 1957, p. 228, Act 185, Imd. Eff. Jun. 4;—Am. 1967, p. 81, Act 63, Imd. Eff. Jun. 20;—Am. 1970, p. 632, Act 234, Imd. Eff. Dec. 3.

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123.738 Systems or improvements outside of county; acquisition.

Sec. 8. Any county operating under this act may acquire outside its corporate limits any part of a water supply system which is necessary for the purpose of securing a source of supply and may acquire outside its corporate limits any part of a sewage disposal system or refuse system which is necessary for the purpose of disposing, including treatment or incineration, of its sewage or refuse. Any county operating under this act may also acquire for any purpose any part of a water supply system, a sewage disposal system, a refuse system or make lake improvements in an adjoining county or counties upon the consent expressed by contract with or resolution of the governing body of the municipality or municipalities in such adjoining county or counties in which such part of such system or lake improvements is to be located or which is to be served by such part of such system. The exercise by any county of such powers outside its corporate limits shall be subject to all constitutional provisions relating thereto.

HISTORY: New 1957, p. 228, Act 185, Imd. Eff. Jun. 4;—Am. 1964, p. 47, Act 42, Eff. Aug. 28;—Am. 1967, p. 81, Act 63, Imd. Eff. Jun. 20;—Am. 1970, p. 632, Act 234, Imd. Eff. Dec. 3.

123.739 Water supply and sewage disposal or refuse systems; service to municipalities and individual users.

Sec. 9. No county shall have the power to furnish water service, sewage disposal service or refuse service to the individual users within any municipality without its consent. The foregoing shall not prevent the county from extending any sewage disposal system or refuse system into any municipality where in the opinion of a majority of the members elect of the board of supervisors the same is necessary to protect health or property in any adjacent municipality and from furnishing sewage disposal or refuse services to individual users therein. Any such extensions may be constructed along with the construction of the original system or thereafter.

HISTORY: New 1957, p. 228, Act 185, Imd. Eff. Jun. 4;—Am. 1967, p. 81, Act 63, Imd. Eff. Jun. 20.

123.740 Approval of systems or improvements; mergers; resolution or contract.

Sec. 10. The establishment of any county water supply, sewage disposal or refuse system or the making of county lake improvements shall be approved by a majority of the members elect of the county board of commissioners. Prior to such approval the county board of commissioners shall submit to the department of natural resources preliminary plans which provide for making the lake improvements for the department of natural resources review and approval. After the department of natural resources approval and county board of commissioners approval, the board of public works shall have power to acquire such system or make such improvements and to improve, enlarge, extend, operate and maintain the same, subject to any restrictions placed thereon by the board of commissioners in the resolution establishing the same or by this act. Any 2 or more systems established by any county and the areas served thereby may be merged or combined by resolution adopted by a majority of the members elect of its board of commissioners after which the merged or combined systems may be improved, enlarged, extended, operated and maintained under this act as a single system serving the total areas of the systems but no merger or combination shall affect either the rights and obligations acquired by any municipality by any contract with respect to any established system or the security of any bonds or the prompt payment of principal or interest thereon. A resolution adopted by the governing body of any city, village, township or charter township authorizing and approving a contract with respect to the financing of or service from any sewage disposal or refuse system constitutes, notwithstanding any statutory or charter limitation to the contrary, a permit to acquire, improve, enlarge, extend, operate and maintain the sewage disposal or refuse system within the corporate limits of the city, village, township or charter township, but no treatment or disposal plants, incinerators, works, grounds, filter beds or

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other similar sewage or refuse disposal facilities, sanitary landfills or dumps shall actually be located in any such municipality without such resolution and contract.

HISTORY: New 1957, p. 229, Act 185, Imd. Eff. Jun. 4;—Am. 1964, p. 47, Act 42, Eff. Aug. 28;—Am. 1967, p. 81, Act 63, Imd. Eff. Jun. 20;—Am. 1970, p. 632, Act 234, Imd. Eff. Dec. 3.

123.741 Methods of financing.

Sec. 11. (1) The acquirement of any water supply, sewage disposal or refuse system or the making of any lake improvements or the improvement, enlargement or extension thereof may be financed in any 1 of the following methods, or any combination thereof:

(a) By the issuance of revenue bonds under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, or any other applicable act.

(b) By the issuance of bonds secured by payments to become due under contracts whereby 1 or more municipalities agree to pay to the county operating under this act certain sums toward the cost of the acquisition, improvement, enlargement or extension of any project which may be made hereunder.

(c) By the issuance of bonds in anticipation of the payment of special assessments made by the board of public works.

(d) By moneys advanced by a county operating under this act under agreements with a municipality or municipalities for the repayment of the same.

(e) By moneys advanced, from time to time prior to or during construction of any project, by any public or private corporation, firm or individual, in which event the county operating under this act shall reimburse the person, firm or corporation, with interest not to exceed 6% per annum or without interest as may be agreed, when funds are available therefor. The obligation of the county to make the reimbursement may be evidenced by a contract or note, which contract or note may be made payable out of the payments to be made by municipalities, under contracts as described in section 12 or 15, or out of the proceeds of bonds issued pursuant to this act by the county or out of any other available funds, but the contract or note shall not be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

Bonds, terms, issuance, tax exemption, sale.

(2) Bonds to be issued under this act shall be authorized by an ordinance or resolution approved by the board of public works and adopted by the county board of commissioners of the county operating under this act. The board of commissioners is authorized, by a 3/5 vote of its members elect, to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds issued pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest on revenue bonds notwithstanding any contrary provision in the acts referred to in subdivision (a) of subsection (1). If it shall become necessary for the county operating under this act to advance any moneys, other than its share of the cost of the project, for the payment of principal and interest, then it shall be entitled to reimbursement from any surplus from time to time existing in the fund from which the principal and interest are primarily payable. The bonds shall be issued in the name of the county and shall be executed by the chairman of its board of commissioners and its county clerk, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The county clerk shall also affix to the bonds the seal of the county. Bonds issued hereunder shall be negotiable instruments and shall be serial bonds payable annually, with the first maturity due not more than 5 years and the last maturity not more than 40 years from the date thereof. The foregoing provisions shall apply to special assessment bonds as well as other bonds. No an-

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nual maturity payable after 5 years from the date of the bonds shall be less than ¼ of the amount of any subsequent maturity on the same series of bonds. The bonds shall bear interest at not more than 6% per annum payable semiannually except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be made payable in lawful money of the United States of America and shall be exempt from all taxation whatsoever by the state or by any taxing authority within the state. The board of commissioners may authorize the board of public works to sell any such bonds in accordance with the laws of the state.

HISTORY: New 1957, p. 229, Act 185, Imd. Eff. Jun. 4;—Am. 1964, p. 47, Act 42, Eff. Aug. 28;—Am. 1967, p. 82, Act 63, Imd. Eff. Jun. 20;—Am. 1970, p. 633, Act 234, Imd. Eff. Dec. 3.

123.742 Intergovernmental contracts; payment, tax levy, validation.

Sec. 12. (1) The county operating under this act and any 1 or more municipalities including the county itself may enter into a contract or contracts for the acquisition, improvement, enlargement or extension of a water supply, a sewage disposal or a refuse system or the making of lake improvements and for the payment of the cost thereof by such contracting municipalities, with interest, over a period not exceeding 40 years.

(2) In any such contract or contracts each contracting municipality shall pledge its full faith and credit for the payment of its obligations thereunder and if the municipality has taxing power, shall each year levy a tax, which shall not be within any statutory or charter limitation, in an amount which, taking into consideration estimated delinquencies in tax collections, will be sufficient for the prompt payment of that part of the contract obligations as shall fall due before the following year's tax collection. For the payment of contractual obligations incurred pursuant to this act, a township shall levy a tax only on the taxable property in the unincorporated areas of the township unless the township and a village have agreed that a part of the capacity in the county system allocated to the township by contract pursuant to this act will be used to serve areas in a village located wholly or partly within the township and the village has not itself agreed to purchase such capacity in the county system. If any contracting municipality at the time of its annual tax levy shall have on hand in cash any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining such credit, funds may be raised by any municipality in any 1 or more of the following methods:

(a) By service charges to users of the system or lake improvements.

(b) By special assessment upon lands benefited.

(c) By the exaction of charges for the connection of properties, directly or indirectly, to the system.

(d) By setting aside any state collected funds disbursed to the municipality and usable therefor.

(e) By setting aside any other available moneys.

The foregoing tax requirements when applied to a county or township shall be subject to any constitutional tax limitation or any lawful increase thereof. Any municipality may agree to raise all or any part of its contract obligation by any 1 or more of the foregoing methods which may be available. The various powers in this act granted to any municipality shall be exercised by its governing body. Any contract heretofore entered into which complies with the provisions of this act, as now amended, is hereby validated.

HISTORY: New 1957, p. 230, Act 185, Imd. Eff. Jun. 4;—Am. 1959, p. 37, Act 34, Imd. Eff. May 12;—Am. 1964, p. 48, Act 42, Eff. Aug. 28;—Am. 1967, p. 83, Act 63, Imd. Eff. Jun. 20;—Am. 1970, p. 634, Act 234, Imd. Eff. Dec. 3.

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123.743 Project special assessment district; municipal special assessments.

Sec. 13. When the board of public works shall determine to spread all or part of the cost of a project to a special assessment district, it shall proceed as provided in chapter 2 of this act. If a municipality other than a county operating under this act elects to raise moneys to pay all or any portion of its share of the cost of a project by assessing the same upon benefited lands, its governing body shall so determine by resolution and fix the district therefor. The governing body shall then cause a special assessment roll to be prepared and thereafter the proceedings in respect to the special assessment roll and the making and collection of the special assessments thereon, shall be in accordance with the provisions of the statute or charter governing special assessments in the municipality, except that the total assessment may be divided into any number of installments not exceeding 30, and any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district previously established in which event due consideration shall be given to the objections.

HISTORY: New 1957, p. 230, Act 185, Imd. Eff. Jun. 4;—Am. 1964, p. 49, Act 42, Eff. Aug. 28.

123.744 Acquisition, methods; disposal of real property.

Sec. 14. Any county operating hereunder, by action of its board of public works, may acquire property for a water supply, a sewage disposal or a refuse system or for lake improvements by purchase, construction, lease, gift, devise or condemnation, either within or without its corporate limits and may hold, manage, control, sell, exchange or lease such property. No real estate shall be disposed of without the approval of the board of commissioners. For the purpose of condemnation it may proceed as provided in chapter 3.

HISTORY: New 1957, p. 230, Act 185, Imd. Eff. Jun. 4;—Am. 1967, p. 83, Act 63, Imd. Eff. Jun. 20;—Am. 1970, p. 635, Act 234, Imd. Eff. Dec. 3.

123.745 Water supply or sewage disposal or refuse systems; municipality service contract with county; county contracts.

Sec. 15. Any 1 or more municipalities or other public corporations, either within or without the county, shall have authority to contract for the purchase of water or sewage or refuse services or transportation from a county operating under this act. Any charges specified in any such contract shall be subject to increase by such county at any time, if necessary, in order to provide funds to meet the obligations of the project involved. The county operating under this act may enter into contract with any public or private corporation, for the purchase by such county from or for the sale by the county to the corporation of water or sewage or refuse services, and for the right to transport sewage through the sewers of the county or of the corporation or to use the facilities of the other. Any contract authorized herein shall be for a period of not exceeding 50 years.

HISTORY: New 1957, p. 230, Act 185, Imd. Eff. Jun. 4;—Am. 1964, p. 49, Act 42, Eff. Aug. 28;—Am. 1967, p. 84, Act 63, Imd. Eff. Jun. 20.

123.746 Water supply or sewage disposal or refuse systems; project costs.

Sec. 16. There may be included as a part of the cost of any project, engineering and legal fees, administration expenses during the period of construction, financing costs, a reasonable amount for contingencies, interest on any bonds to be issued therefor for a period not exceeding the estimated construction period and 6 months thereafter, and any other costs incident to the acquisition and financing of the project.

HISTORY: New 1957, p. 230, Act 185, Imd. Eff. Jun. 4.

123.747 Water and sewage disposal or refuse systems; delinquency in payment by municipality; authorized deductions.

Sec. 17. If any municipality shall fail to pay to a county operating under this act, as the same shall become due, any amount required to be paid under any contract or assessment made pursuant to this act, then the county treasurer shall deduct such

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amount from any moneys from time to time in his possession belonging to the municipality which are not pledged to the payment of debts, but such county treasurer shall not withhold in any one year a sum greater than 25% of the total amount owed the county by such delinquent municipality on account of such advancements. Nothing in this section contained shall permit the deduction of any moneys in contravention of the constitution, but any municipality itself may authorize, in any contract with a county operating under this act, such deduction and transfer from moneys derived from time to time from the state sales tax.

HISTORY: New 1957, p. 231, Act 185, Imd. Eff. Jun. 4;—Am. 1964, p. 50, Act 42, Eff. Aug. 28.

CHAPTER 2.

SPECIAL ASSESSMENT PROCEDURE

123.751 Special assessments for project.

Sec. 21. The board of public works shall have power to determine that the whole or any part of the cost of any project shall be defrayed by special assessments against the properties especially benefited thereby.

HISTORY: New 1957, p. 231, Act 185, Imd. Eff. Jun. 4.

123.752 Special assessments; plans, estimate of costs, designation of district, hearing on objections, notice, additions.

Sec. 22. The board of public works shall cause to be prepared by a registered engineer, plans showing the project and an estimate of the cost thereof. Upon receipt of such plans and estimate the board of public works shall order the same to be filed with the director of public works and if it shall desire to proceed with the said project, it shall by resolution tentatively so declare and also tentatively designate the special assessment district against which the cost of the project is to be assessed. The board of public works shall then fix a time and place when and where it will meet and hear any objections to the improvement and to the special assessment district therefor, and shall cause notice of the hearing to be given by the publication thereof twice prior to the hearing in a newspaper circulating in the special assessment district, the first publication to be at least 10 days prior to the time of the hearing. The notice shall state that the plans and estimate are on file with the director of public works for public examination and shall contain a description of the proposed special assessment district. At the time of the hearing, or at any adjournment thereof which may be without further notice, the board of public works shall hear any objections to the improvement and to the special assessment district. The board of public works may revise, correct, amend or change the plans, the estimate of cost or the special assessment district. No final action shall be taken in respect to the addition of any property to the district or to increasing the estimated cost in excess of 10% of the original estimate, until after a new hearing upon notice given as above provided.

HISTORY: New 1957, p. 231, Act 185, Imd. Eff. Jun. 4.

123.753 Special assessments; final determination of district; special assessment roll.

Sec. 23. After the completion of the hearing provided for in section 22, the board of public works, if it desires to proceed with the project, shall by resolution so determine and shall approve the plans and estimate of cost as originally presented or as revised, corrected, amended or changed, and shall finally determine the special assessment district. The board of public works shall then cause a special assessment roll to be prepared by the director of public works in which shall be entered and described all parcels of land to be assessed, with the names of the respective owners thereof, if known, and the amount to be assessed against each parcel of land, which amount shall be the relative portion of the whole sum to be levied against the special assessment district as

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the benefit to the parcel of land bears to the total benefits to all parcels of land in the special assessment district. When the director of public works shall have completed the assessment roll, he shall affix thereto his certificate stating that it was made pursuant to the resolution of the board of public works ordering its preparation and that in making such assessment roll he has according to his best judgment, conformed in all respects to the directions contained in such resolution and the statutes of the state.

HISTORY: New 1957, p. 231, Act 185, Imd. Eff. Jun. 4.

123.754 Special assessments; confirmation of roll.

Sec. 24. When any special assessment roll shall have been made the same shall be filed in the office of the director of public works. Before confirming the assessment roll the board of public works shall fix a time and place when it will meet and review the same and hear any objections thereto, and shall cause notice of the hearing and of the filing of the assessment roll, to be published twice prior to the hearing in a newspaper circulating in the special assessment district, the first publication to be at least 10 days before the hearing. The hearing may be adjourned from time to time without further notice. Any person objecting to the assessment roll shall file his objection thereto in writing with the director of public works before the close of the hearing or within such further time as the board may grant. After the hearing the board of public works may confirm the special assessment roll as reported to it or corrected by it, or may refer it back for revision, or may annul it and direct a new roll to be made. When a special assessment roll shall have been confirmed the secretary of the board shall indorse thereon the date of confirmation. After the confirmation the special assessment roll and all assessments thereon shall be final and conclusive unless attacked in a court of competent jurisdiction within 30 days after the date of confirmation.

HISTORY: New 1957, p. 232, Act 185, Imd. Eff. Jun. 4.

123.755 Special assessments; installment payment.

Sec. 25. The board of public works may provide that the assessments made on any roll shall be payable in 1 or more annual installments, not exceeding 30. The board may vary the principal amount of each installment but no installment shall be less than 1/4 of the amount of any subsequent installment. Annual installments need not be extended upon the special assessment roll until after confirmation. All unpaid installments shall bear interest payable annually at a rate to be set by the board of public works not exceeding 6% per annum, from such date as shall be fixed by the board. Installments of special assessments shall be spread as hereinafter provided, 1 each year, upon the tax rolls upon which county taxes are spread. The board of public works shall specify the first year of such spread which shall not be later than the year following that in which the roll was confirmed. The board may provide the times and conditions upon which installments of special assessments may be paid in advance of their due dates.

HISTORY: New 1957, p. 232, Act 185, Imd. Eff. Jun. 4.

123.756 Special assessments; certification of amounts to be spread.

Sec. 26. The director of public works shall certify annually to the county clerk, on or before the first day of the annual meeting of the board of supervisors, the amount due on the special assessment installment against each parcel of land in the district, which is to be spread upon the tax rolls of that year, and the interest upon all unpaid installments computed to March 1 following. The certificate shall be divided as between the several townships and cities in which the assessed lands are located. The board of supervisors shall order the amounts so certified to be spread upon the tax rolls of the cities and townships in which the properties are located. The county clerk shall certify to each assessing officer the several amounts to be spread as ordered by the board of supervisors and it shall be his duty to spread upon the tax rolls of that year, separately

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and immediately following the proper land descriptions, in a column marked "County Assessment Roll Number", the amount so certified to him by the county clerk.

HISTORY: New 1957, p. 232, Act 185, Imd. Eff. Jun. 4.

123.757 Special assessments; collection.

Sec. 27. All assessments spread under the provisions of this act shall be subject to the same interest, collection and penalty charges and shall be collected in the same manner, as county taxes. All collecting officers are hereby vested with the same power and authority in the collection of such assessments as are or may be conferred upon them by law for collecting general county taxes. All collections of special assessments made by city and township treasurers shall be turned over to the county treasurer. All provisions of law in respect to the return of uncollected county taxes by the treasurers of cities and townships shall apply to the return of uncollected special assessments spread upon the tax rolls under the provisions of this act, and all provisions of law in respect to the sale of lands for the nonpayment of taxes and the redemption thereof, shall likewise apply in case of the nonpayment of special assessments.

HISTORY: New 1957, p. 232, Act 185, Imd. Eff. Jun. 4.

123.758 Special assessments; lien.

Sec. 28. Special assessments, including all installments thereof, contained in any special assessment roll, shall from the date of confirmation of the roll, constitute a lien upon the respective parcels of land assessed. The lien shall be of the same character and effect as the lien created for county taxes and shall include accrued interest, collection charges and penalties. No judgment or decree or any act of the board of public works vacating a special assessment shall destroy or impair the lien upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

HISTORY: New 1957, p. 233, Act 185, Imd. Eff. Jun. 4.

123.759 Special assessments; apportionment on division of parcels.

Sec. 29. Should any parcel of land be divided after a special assessment thereon has been confirmed, and before the collection thereof, the board of public works may require the director of public works to apportion the uncollected amounts between the several divisions thereof and the report of the apportionment when confirmed by the board shall be conclusive upon all parties. If the interested parties do not agree in writing to the apportionment, then, before the confirmation, notice of hearing shall be given to all the interested parties, either by personal service or by publication as above provided in case of an original assessment roll.

HISTORY: New 1957, p. 233, Act 185, Imd. Eff. Jun. 4.

123.760 Special assessments; prorated deficiency or surplus of collection.

Sec. 30. Should the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the board of public works shall make additional pro rata assessments to supply the deficiency, but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement. Should the total amount collected on the assessments prove larger than necessary by more than 5% of the original roll, then the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next installment of the special assessment, or if there are no unpaid

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installments then it shall be refunded to the persons who are the record owners of the properties on the date of the passage of the resolution ordering the refund. Any surplus of 5% or less shall be retained by the county for use by the board of public works.

HISTORY: New 1957, p. 233, Act 185, Imd. Eff. Jun. 4.

123.761 Special assessments; curative proceedings.

Sec. 31. Whenever any special assessment, in the opinion of the board, shall be invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction shall adjudge the assessment to be illegal, the board, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, shall have power to proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on the reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessments and whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

HISTORY: New 1957, p. 233, Act 185, Imd. Eff. Jun. 4.

123.762 Special assessments; exempted lands; agreement to pay assessment.

Sec. 32. Any person, firm or corporation, public or private, whose lands are exempt by law from the payment of special assessments, may agree in writing to pay any special assessments against such lands, and in such case the assessment, including all the installments thereof, shall be a valid claim against such corporation.

HISTORY: New 1957, p. 233, Act 185, Imd. Eff. Jun. 4.

123.763 Delinquent special assessments; advancement by municipality; reimbursement; reassessment.

Sec. 33. Whenever lands in any municipality are assessed by the board of public works for all or any part of the cost of a project, the governing body of the municipality by resolution adopted by 3/5 of its members elect may agree that in the event of delinquency in the collection of assessments against lands within the municipality, it will advance the amount of the delinquency to the extent necessary to pay principal and interest on any bonds issued in anticipation of the assessments, as the same mature. If moneys are so advanced by any municipality, then it shall be reimbursed therefor from the collection of the delinquent assessments and if collections from special assessments are not sufficient to reimburse any municipality making such advancements, within a 5-year period from the date of advancement, then the board of public works shall reassess the district as in the first instance in order to provide for the payment of the sum so advanced.

HISTORY: Add. 1964, p. 50, Act 42, Eff. Aug. 28.

CHAPTER 3.

CONDEMNATION PROCEDURE

123.771 Condemnation; authority.

Sec. 41. A county operating under this act is hereby authorized to take private property necessary for any purpose within the scope of its powers under this act, for the use or benefit of the public and to institute and prosecute proceedings for that purpose.

HISTORY: New 1957, p. 234, Act 185, Imd. Eff. Jun. 4.

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123.772 Condemnation; declaration of necessity.

Sec. 42. Proceedings may be commenced and prosecuted under this chapter whenever the board of public works, acting as the agency of the county, shall have declared by resolution that it deems it necessary to take certain private property for a designated public improvement, and that such improvement is for the use or benefit of the public. It shall by resolution direct its attorney to institute the necessary proceedings in its behalf in the circuit court of the county where the private property sought to be taken is located.

HISTORY: New 1957, p. 234, Act 185, Imd. Eff. Jun. 4.

123.773 Petition; contents.

Sec. 43. The board of public works shall make and deliver to its attorney a certified copy of the resolution and it shall be the duty of the attorney to prepare and file in the name of the county in the court having jurisdiction of the proceedings, a petition signed by him in his official capacity and duly verified by him, to which petition a certified copy of the resolution of the board of public works shall be annexed. The petition shall state among other things that it is made and filed pursuant to this chapter and the resolution as commencement of judicial proceedings by the county acting through its board of public works, to acquire the right to take the private property therein described for the use or benefit of the public, without the consent of the owners, for the designated public improvement, for a just compensation to be made. The petition shall set forth the names of all persons interested in said property insofar as they can be ascertained. The petition may state any other pertinent matter or matters and shall pray for the appointment of 3 special court commissioners to determine the necessity of taking for public use or benefit the property described in the petition and to appraise the damages to be paid as compensation for the taking of each piece or parcel of property.

HISTORY: New 1957, p. 234, Act 185, Imd. Eff. Jun. 4.

123.774 Petition; court order for hearing.

Sec. 44. Upon filing of the petition the court shall make an order fixing a day for hearing on such petition which shall be not less than 25 days thereafter. The order shall recite the purpose of the petition and the description of the property to be taken and the names of the persons mentioned in the petition as parties interested therein. It shall order the persons to appear before the court at the time fixed therein for the hearing and show cause, if any they have, why the prayer in the petition should not be granted. If any person named in such petition shall be a minor or an insane or incompetent person who has no general guardian, then the court shall appoint a guardian ad litem for him.

HISTORY: New 1957, p. 234, Act 185, Imd. Eff. Jun. 4.

123.775 Petition; publication of order; service on named defendants.

Sec. 45. A copy of the order shall be published once in each week for 3 weeks in some newspaper circulated in the county, to be designated by the court, the first publication to be not less than 3 weeks before the hearing. A copy of the order shall also be served on each person named in the petition interested in the land described therein in the manner provided in section 54. The publication shall constitute service of the order upon all non-residents of the county and upon all persons who are absent from the county or are unknown or are evading service or who for any other reason cannot be found. Proof of publication and service may be made by affidavit of any person having knowledge of the facts. The proof shall be filed with the court on or before the day of hearing and thereupon the court shall have jurisdiction of the subject matter involved in the proceedings and of the parties interested therein. Service of the order in any mode herein prescribed shall be sufficient notice of the proceeding to

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bind the parties in interest named therein and the property represented by them as described in the petition.

HISTORY: New 1957, p. 234, Act 185, Imd. Eff. Jun. 4.

123.776 Court commissioners; appointment; discontinuance of proceedings.

Sec. 46. On the day fixed, the court shall enter the default of all persons interested in the property described who have not appeared; and unless sufficient cause to the contrary be shown, shall appoint 3 disinterested persons as court commissioners whose duty it shall be to determine whether it is necessary to take for public use or benefit the property described in the petition and, if so, to appraise the damages to be paid as compensation for such taking. The commissioners shall not be residents of the area to be served by the improvement for which the property is to be taken. The court shall fix the time and place for the first meeting of the court commissioners and require their attendance; it may also authorize the court commissioners to adjourn their meeting from time to time not later than a day to be named, and shall fix the time for filing their report. After the appointment of court commissioners, no discontinuance shall be filed and no order of discontinuance may be entered, except upon payment by the county of the expenses of the proceeding and reasonable attorney fees of all parties in interest who have appeared in the proceedings under the order of the court.

HISTORY: New 1957, p. 235, Act 185, Imd. Eff. Jun. 4.

123.777 Court commissioners; meetings, adjournments; view of premises.

Sec. 47. The court commissioners shall meet at the time and place ordered by the court and shall be sworn to faithfully discharge their duties. If all do not then appear, a less number may adjourn to a time certain, but no adjournment shall be made to a day later than the time allowed by the court. All adjournments shall be publicly announced. The court or the clerk thereof may issue subpoenas to compel the attendance of witnesses before the court or before the court commissioners. Any court commissioner may administer oaths to witnesses. The court commissioners shall view the premises described in the petition and shall hear the proofs and allegations of the parties.

HISTORY: New 1957, p. 235, Act 185, Imd. Eff. Jun. 4.

123.778 Court commissioners; determination of necessity, damages, report.

Sec. 48. The court commissioners shall determine whether it is necessary to take for public use or benefit the property described in the petition, and if so, shall appraise the damages to be paid as compensation for each piece or parcel of property, and shall report such decision in writing, signed by them or a majority of them, at or before the time fixed for that purpose, but it shall not be necessary for the court commissioners to report on all of the property at one time.

HISTORY: New 1957, p. 235, Act 185, Imd. Eff. Jun. 4.

123.779 Multiple petitions; descriptions.

Sec. 49. It shall not be necessary for the board of public works to include in 1 determination the descriptions of all of the property necessary to be taken for any single project or to include in 1 petition the descriptions of all of the property described in the determination upon which such petition is based.

HISTORY: New 1957, p. 235, Act 185, Imd. Eff. Jun. 4.

123.780 Report of court commissioners; court orders.

Sec. 50. Upon the filing of the report of the court commissioners, the court shall set a time for the consideration thereof and shall cause notice thereof to be given in the manner required by court rule in respect to the hearing of motions. At such time or at

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such other time to which it may adjourn the proceedings, the court on cause shown may set aside the report and refer it back to the court commissioners or appoint other commissioners to re-try the questions involved, whereupon such proceedings shall be had as are hereinbefore provided for. The court may permit the amendment of any determination, petition, affidavit, order, report or proceeding filed or had in the premises in such manner as shall be just and proper; it may fill any vacancy that shall occur among the court commissioners, by reason of death, resignation, removal or inability to act; at any time, in its discretion, it may remove any or all of the commissioners for cause and fill the vacancy thereby created; it may permit a defective proceeding to be set aside and other proceedings in compliance with law to be had in place thereof; it may determine the division of any award among the several claimants thereto; it may adjourn the proceedings or any part thereof from time to time, and may make all such orders in the premises as may be just and proper to further accomplish the purpose thereof.

HISTORY: New 1957, p. 235, Act 185, Imd. Eff. Jun. 4.

123.781 Report of court commissioners; confirmation, orders for payment of witness fees, attorney fees, damages.

Sec. 51. After the court shall confirm the report of the court commissioners, it shall enter an order authorizing the county to pay the several sums awarded for damages and it shall pay the same accordingly. The court may determine and include in the order an allowance to the persons, partnership or corporation from whom property is taken, for attorney fees and witness fees in an amount to be fixed by the court; such attorney fees and witness fees shall be paid in the same manner and at the same time as sums awarded for damages in such proceeding. It shall not be lawful for the court to make such order allowing witness and attorney fees to more than 1 title interest and such lien interests as are adverse thereto and to each other in any single parcel of real estate as set up and described in the determination of necessity on file. The payment shall be made in money or by an order drawn on the county treasurer to the several persons entitled thereto, and if refused, or if there is no person properly authorized to receive the same, or if the person entitled thereto is a non-resident of the county or cannot be found, it shall be deposited as directed by the court.

HISTORY: New 1957, p. 236, Act 185, Imd. Eff. Jun. 4.

123.782 Compensation of court commissioners; expenses.

Sec. 52. The court shall fix the compensation of the court commissioners and determine the amount of their necessary expenses incurred in connection with such proceeding.

HISTORY: New 1957, p. 236, Act 185, Imd. Eff. Jun. 4.

123.783 Review by certiorari; procedure; time limitation.

Sec. 53. Any proceeding taken under the provisions of this act shall be subject to review upon certiorari. The procedure therefor shall be the same as is required in case of certiorari to review judgment rendered by judges of the circuit courts. The application for certiorari must be filed within 20 days after the report of the court commissioners shall have been confirmed.

HISTORY: New 1957, p. 236, Act 185, Imd. Eff. Jun. 4.

123.784 Court orders; service.

Sec. 54. All court orders heretofore mentioned in this act, unless otherwise provided, may be served as follows:

(a) By delivery of a true copy thereof to the person to be served; or

(b) By leaving a true copy thereof at the residence of the person to be served; or

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(c) By mailing a true copy thereof by certified or registered mail to the last known post office address of the person to be served, so far as is known; or

(d) If service upon any person is impossible by any of the above methods, then by posting a true copy thereof on the property of such person, which is sought to be taken in the proceedings.

HISTORY: New 1957, p. 236, Act 185, Imd. Eff. Jun. 4.

123.785 Prima facie evidence of ownership.

Sec. 55. It shall be prima facie evidence as to who are owners of and persons interested in any property proposed to be taken under this act if the register or deputy register of deeds of the county shall testify in open court that he had examined the records in his office, and state who such records show are the owners of and persons interested in such property, and the nature and extent of such ownership and interest. An abstract of the title of such property or any parcel thereof certified by the register or deputy shall also be prima facie evidence of ownership and persons having an interest in any such property and the extent and nature of such interest.

HISTORY: New 1957, p. 236, Act 185, Imd. Eff. Jun. 4.

123.786 Lis pendens; filing.

Sec. 56. It shall be the duty of any attorney filing a petition under this chapter to file a lis pendens in the office of the register of deeds.

HISTORY: New 1957, p. 237, Act 185, Imd. Eff. Jun. 4.

Act 178, 1913, p. 348; Eff. Aug. 14.

AN ACT to fix the leave of absence and furlough of officers and men in the police department of cities having a population of over 25,000 inhabitants, and providing penalties for the violation thereof. Am. 1925, p. 354, Act 238, Eff. Aug. 27;—Am. 1947, p. 454, Act 287, Eff. Oct. 11.

The People of the State of Michigan enact:

123.801 Police department employees; leaves, furlough; emergency; reduction of working days.

Sec. 1. In cities having over 25,000 inhabitants, unless now or hereafter otherwise provided by city ordinance or charter, officers and men of the police department shall each be entitled to a leave of absence of 1 day of 24 hours off duty in every 7, and a furlough of not less than 14 days once in each year: Provided, however, That this shall not prohibit the head of a police department from suspending such leave of absence or furlough, temporarily, as a matter of discipline, for insubordination of any officer or man employed by said police department: Provided further, That this act shall not apply in case of an emergency: Provided further, That any city affected by this act may, by a majority vote of the members-elect of the legislative body of said city, reduce the number of working days and hours and/or increase the furlough of employees affected by this act, any charter provisions to the contrary notwithstanding.

HISTORY: CL 1915, 3473;—Am. 1925, p. 354, Act 238, Eff. Aug. 27;—CL 1929, 2724;—Am. 1937, p. 694, Act 337, Imd. Eff. July 27;—Am. 1947, p. 454, Act 287, Eff. Oct. 11;—CL 1948, 123.801.

Act 236, 1967, p. 350; Imd. Eff. Jul. 10.

AN ACT to authorize cities, villages and townships to enter into mutual police assistance agreements; to define the terms of the agreement; and to provide for the compensating of the cities, villages and townships entering into such agreements.

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The People of the State of Michigan enact:

123.811 Mutual police assistance agreements; authority for cities, villages, townships to enter.

Sec. 1. Any 2 or more cities, villages or townships, whether adjacent to each other or not, may enter into agreements to provide mutual police assistance to one another in case of emergencies.

HISTORY: New 1967, p. 350, Act 236, Imd. Eff. Jul. 10.

123.812 Agreements; nature and declaration of emergency; grounds for requests; officials entitled to request; payment for services; powers and duties; authority being served.

Sec. 2. The agreements, subject to the approval of the governing bodies of such cities, villages or townships, shall provide for the nature of the emergency, who shall declare the emergency, under what circumstances police assistance may be asked for and by what city, village or township officials and shall provide for the payment of such services and what powers, duties and responsibilities and under whose authority policemen called to duty under the terms of the mutual aid assistance agreement shall serve.

HISTORY: New 1967, p. 350, Act 236, Imd. Eff. Jul. 10.

123.813 Compensation, disability, retirement, and furlough payments; equipment and supplies charges.

Sec. 3. The agreements shall contain provisions relative to compensation and disability payments, retirement and furlough payments and charges to be made for equipment, supplies and materials used or expended while rendering assistance under the agreement.

HISTORY: New 1967, p. 350, Act 236, Imd. Eff. Jul. 10.

123.814 Contracts or establishment of intermunicipal police authorities; adjacent cities, villages, or townships; approval; administration, apportionment of costs.

Sec. 4. Any 2 or more cities, villages or townships, adjacent to each other, shall have power to join together, by contract or by the establishment of an intermunicipal police authority, for the purposes of providing police services to the respective cities, villages and townships. Such contracts or intermunicipal police authorities shall be approved by the governing bodies of the cities, villages and townships and shall be administered by a commission established in accordance with the agreements and shall contain provisions relative to apportionment of the costs of such services among the cities, villages or townships entering such agreements.

HISTORY: New 1967, p. 350, Act 236, Imd. Eff. Jul. 10.

Act 157, 1941, p. 206; Eff. Jan. 10, 1942.

AN ACT to provide for the payment of minimum annual salaries to police officers and policemen in incorporated cities of this state; and to repeal all acts and parts of acts that are inconsistent with the provisions of this act.

The People of the State of Michigan enact:

123.821 Policemen; minimum schedule of salaries.

Sec. 1. Hereafter minimum annual salaries and compensation shall be paid to police officers and policemen, in incorporated cities of this state, in accordance with the following schedule: in incorporated cities having more than 500,000 population, police officers and policemen with more than 3 years police service shall receive an amount

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not less than $2,640.00 per year; in incorporated cities having a population of more than 75,000 but not exceeding 500,000, police officers and policemen with more than 3 years police service shall receive not less than $2,000.00 per year; in incorporated cities having a population of more than 25,000 but not exceeding 75,000, police officers and policemen with more than 2 years police service shall receive not less than $1,900.00 per year; in incorporated cities having a population of more than 12,500 but not exceeding 25,000, police officers and policemen with more than 2 years police service shall receive not less than $1,800.00 per year; in incorporated cities having a population of more than 5,000 but not exceeding 12,500, police officers and policemen with more than 1 year police service shall receive not less than $1,700.00 per year.

HISTORY: CL 1948, 123.821.

123.822 Policemen; cities in which schedule not applicable.

Sec. 2. The foregoing schedule shall apply to all incorporated cities of this state, except where incorporated cities having more than 40,000 population adjoin or lie within the boundaries of an incorporated city that has more than 500,000 population. In this case police officers and policemen of the smaller city and having 3 or more years police service shall receive not less than $2,640.00 per year.

HISTORY: CL 1948, 123.822.

123.823 Policemen; census for ascertaining city population.

Sec. 3. The last federal decennial census or any federal decennial census hereafter taken shall be used in ascertaining the size of the city for the purpose of conforming with the foregoing schedules.

HISTORY: Am. 1945, p. 25, Act 27, Eff. Sept. 6;—CL 1948, 123.823.

123.824 Inapplicability of act.

Sec. 4. This act shall not apply to persons engaged in part time, emergency or special police service or to any person not actively engaged in said service.

HISTORY: CL 1948, 123.824.

Sec. 5. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 6. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 327, 1965, p. 614; Imd. Eff. Jul. 23.

AN ACT to set certain minimum standards for fire departments in certain municipalities; and to provide a time within which they must comply.

The People of the State of Michigan enact:

123.831 Fire departments in cities of 70,000; minimum standards.

Sec. 1. In each city, township or village which has or shall hereafter attain a population of 70,000 or more according to the last decennial census, the fire department shall meet the minimum standards set by the Michigan inspection bureau to qualify for class 6 fire classification.

HISTORY: New 1965, p. 615, Act 327, Imd. Eff. Jul. 23.

123.832 Time within which standards must be met.

Sec. 2. These minimum standards shall be met within 1 year from the effective date of this act or within 1 year from the date the municipality attains a population of 70,000 or more.

HISTORY: New 1965, p. 615, Act 327, Imd. Eff. Jul. 23.

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Act 125, 1925, p. 166; Eff. Aug. 27.

AN ACT to regulate the hours of labor of employes in the fire departments of municipalities, and providing penalties for the violation thereof.

The People of the State of Michigan enact:

123.841 Fire department employees; period of duty; days off duty; work hours per week.

Sec. 1. It shall be unlawful for any municipality, or any officer or employee thereof, in municipalities which maintain or may hereafter maintain an organized paid or part-paid fire department, to require any person in the employ of the fire department who is engaged in fire fighting or subject to the hazards thereof to be on duty in such employment more than 24 hours, or to be off duty less than 24 consecutive hours out of any 48-hour period. All persons in the employ of any organized paid or part-paid fire department who are engaged in fire fighting or subject to the hazards thereof shall be entitled to an additional 24 consecutive hours off duty in every 12-day period, beginning July 1, 1966, thereby requiring firemen to work not more than an average of 63 hours per week, and effective July 1, 1967, an additional 24 consecutive hours off duty in every 6-day period, thereby requiring firemen to work not more than an average of 56 hours per week.

HISTORY: CL 1929, 2725;—Am. 1937, p. 49, Act 38, Eff. Oct. 29;—Am. 1941, p. 65, Act 57, Eff. Jan. 10, 1942;—Am. 1947, p. 632, Act 335, Eff. Oct. 11;—CL 1948, 123.841;—Am. 1965, p. 151, Act 115, Eff. Mar. 31, 1966.

123.842 Persons exempt.

Sec. 2. The provisions of section 1 shall not apply

(a) To the chief officer or the assistant chief officer in command of the fire department of a municipality;

(b) To employees of a fire department who are employed subject to call;

(c) To the members or employees of a fire department when required to remain on duty by the chief officer of such department, his aids or assistants, in cases of public necessity arising from great conflagration, riot, flood, epidemic of pestilence or disease, necessary absence of regularly employed men due to military service, or for disciplinary measures; nor

(d) To the members of any volunteer fire department.

HISTORY: CL 1929, 2726;—Am. 1937, p. 49, Act 38, Eff. Oct. 29;—Am. 1947, p. 632, Act 335, Eff. Oct. 11;—CL 1948, 123.842.

123.843 Penalty for violations.

Sec. 3. Any officer or employe or agent of such municipality who shall require any employe or other person in any such fire department, save as hereinbefore excepted in section 2 of this act, to be on duty in such employment for a longer time than that hereinbefore provided, or to be off duty for a lesser time than that hereinbefore provided, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than 100 dollars or by imprisonment in the county jail for not more than 3 months, or by both such fine and imprisonment.

HISTORY: CL 1929, 2727;—CL 1948, 123.843.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1929, 2728;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 110, 1905, p. 157; Imd. Eff. May 10.

AN ACT to authorize townships, cities and villages to appropriate money to defray the expenses of the proper observance of armistice, independence and memorial or decoration day. Am. 1931, p. 41, Act 27, Eff. Sep. 18.

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The People of the State of Michigan enact:

123.851 Armistice, independence, memorial days; appropriation, assessment.

Sec. 1. It shall be lawful for the township board of any township, the board of trustees of any village, or the common council of any city in this state, to appropriate money for the purpose of defraying the expenses of the proper observance of armistice, independence and memorial or decoration day: Provided, That the amount expended in any one year under the provisions of this act shall be limited as follows: In any township, city or village having a population of less than 5,000 inhabitants, a sum not exceeding $100.00; in any village containing not less than 5,000 inhabitants, a sum not exceeding $150.00; in any village or city containing not less than 10,000 inhabitants, a sum not exceeding $200.00, and in any village or city containing not less than 20,000 inhabitants, a sum not exceeding $400.00, and in any city containing not less than 50,000 inhabitants, a sum not exceeding $500.00, and in any city containing not less than 1,000,000 inhabitants, a sum not exceeding $4,000.00. The sums hereby authorized to be appropriated shall be assessed, levied and collected in the same manner as other expenses of such township, village or city are assessed, levied and collected.

HISTORY: CL 1915, 3296;—Am. 1921, p. 75, Act 48, Eff. Aug. 18;—CL 1929, 2731;—Am. 1931, p. 41, Act 27, Eff. Sept. 18;—Am. 1947, p. 63, Act 57, Imd. Eff. Apr. 25;—CL 1948, 123.851;—Am. 1955, p. 34, Act 30, Imd. Eff. Apr. 19.

123.852 Observance, direction; expense, payment.

Sec. 2. The manner and extent of such observance of armistice, independence and memorial or decoration day shall be under the direction of the township board of the township, board of trustees of the village or common council of the city, as the case may be, and the expense thereof shall be paid in the same manner as other expenses of such township, village or city are paid.

HISTORY: CL 1915, 3297;—CL 1929, 2732;—Am. 1931, p. 41, Act 27, Eff. Sept. 18;—CL 1948, 123.852.

Act 230, 1923, p. 371; Eff. Aug. 30.

AN ACT to authorize and empower villages and townships of this state, also cities having a population not exceeding 50,000 inhabitants, to levy a tax for the maintenance and employment of a band for musical purposes for the benefit of the public, provided said special question is submitted to the duly qualified voters of such villages, townships or cities and adopted or agreed to by a majority vote of those participating in said election.

The People of the State of Michigan enact:

123.861 Town band; consent of voters in referendum.

Sec. 1. The township board, village council, common council, commission, or other legislative body of any township or village of this state, or city having a population not exceeding 50,000 inhabitants, upon petition of 10 per centum of the qualified voters thereof, shall submit the question to the people as to whether such village, township or city, as the case may be, shall come under the provisions of this act and, if adopted or agreed to by a majority vote of the qualified voters participating in said election, then this act shall be in full force and effect.

HISTORY: CL 1929, 2733;—CL 1948, 123.861.

123.862 Band maintenance; annual tax, limit.

Sec. 2. In all such villages, townships or cities adopting the provisions of this act, the legislative body thereof is authorized and empowered to levy an annual tax not exceeding 2 mills on each dollar of the assessed valuation of such village, township or

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city as the case may be, for the maintenance and employment, under municipal control, of a band for musical purposes for the benefit of the public.

HISTORY: CL 1929, 2734;—CL 1948, 123.862.

123.863 Existing bands; adoption of provisions of act, procedure.

Sec. 3. Any such village, township or city, having previously adopted the provisions of this act, may at any time thereafter relinquish said authority or power by following the same procedure as provided in this act for adopting the provisions thereof: Provided, That such action may be taken by the legislative body aforesaid only after a petition signed by 10 per centum of the qualified voters residing in such village, township or city, as the case may be, duly filed with the legislative body thereof at least 60 days prior to the date of re-submission, asking that the question of relinquishment of said authority be re-submitted to the vote of the people.

HISTORY: CL 1929, 2735;—CL 1948, 123.863.

Sec. 4. (This was a repeal section.)

HISTORY: CL 1929, 2736;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 380, 1913, p. 725; Eff. Aug. 14.

AN ACT to regulate gifts of real and personal property to cities, villages and other municipal corporations, and to validate all such gifts heretofore made.

The People of the State of Michigan enact:

123.871 Gifts to municipal corporations; acceptance, terms; informalities; validation of gifts.

Sec. 1. Any city, village, township or other municipal corporation in the state of Michigan may receive, own and enjoy any gift of real or personal property, made by grant, devise, bequest or in any other manner, for public parks, grounds, cemeteries, public buildings and other public purposes, whether made directly or in trust, subject to such conditions, limitations and requirements as may be provided in such grant, devise, bequest or other instrument. No such gift shall be invalid because of any informality in the instrument evidencing such gift, if the intent can be determined therefrom, nor by reason of its contravening any statute or rule against perpetuities. All such gifts heretofore made, either by grant, devise, bequest or in any other manner are hereby declared valid, though they violate any statute or rule against perpetuities, the same as if this act had been in effect when made.

HISTORY: CL 1915, 3301;—CL 1929, 2746;—CL 1948, 123.871.

See Compilers' § 554.351 et seq. for law dealing with similar subject matter.

SALE OF LANDS: See Act 258 of 1925, being Compilers' § 554.401 et seq.

Act 359, 1925, p. 676; Imd. Eff. May 27.

AN ACT to empower the common council of any city, or the corporate authorities of any village, to levy a special tax to be used for advertising, publicity, recreation or exploitation, tending to encourage the industrial, commercial, educational or recreational advantages of the said city or village, for the purpose of encouraging immigration to, and increasing the trade, business and industries of the said city or village.

The People of the State of Michigan enact:

123.881 Publicity tax; limit.

Sec. 1. The common council of any city, or the corporate authorities of any village, in this state, shall have the power to levy a special tax not to exceed in any 1 year 4

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mills on the dollar of the assessed valuation of all taxable property within the said city or village, to be used for advertising, exploiting and making known the industrial, commercial, educational or recreational advantages of the said city or village, and to establish recreational and educational projects for the purpose of encouraging immigration to, and increasing the trade, business and industries of the said city or village: Provided, however, That such tax levy shall not exceed 50,000 dollars in any 1 year.

HISTORY: CL 1929, 2712;—CL 1948, 123.881.

Act 109, 1897, p. 120; Eff. Aug. 30.

AN ACT to provide for police matrons in certain cities of the state, to define their powers and duties, and to provide for designating station houses or departments thereof, for the detention of women and children under arrest in said cities.

The People of the State of Michigan enact:

123.891 Detention quarters in cities for women and children.

Sec. 1. That the board of aldermen in every city of 10,000 inhabitants or more, in this state, or in cities having a police commission, the police commission shall, within 3 months after the passage of this act designate 1 or more station houses or a separate department in any such station house, or county jail within their respective cities for the detention of all women and children under arrest, and such board of aldermen or police commission may, at any time thereafter so designate any additional station house or station houses or separate department or departments thereof; and may declare such station house or station houses or such separate department or departments thereof to be no longer so designated: Provided, At least 1 station house or separate department thereof shall always remain so designated in such city.

HISTORY: CL 1897, 3491;—CL 1915, 3486;—CL 1929, 2716;—CL 1948, 123.891.

123.892 Police matrons; appointment, qualifications, removal, vacancies, duties.

Sec. 2. Immediately upon such designation of a station house in any city the mayor thereof or, in counties where the prisoners of the county seat as a city are confined in the county jail, the sheriff shall appoint for each station house so designated 1 or more respectable women, none of whom shall be under 25 years of age, who shall be known as police matrons. No woman shall be appointed police matron unless recommended for such office in writing by at least 20 women in good standing and residents in the city in which such appointment is made. The police matron shall not be appointed for any definite term, but shall hold office until removal. She may be removed at any time for cause by the mayor, or, in cities having a police commission, by said commission, or, in county jails where appointed by the sheriff, by said sheriff; by a written order stating the cause of removal. Upon the death, resignation or removal of a police matron, her successor shall be appointed in the manner aforesaid as soon as may be. Provided, That in cities having a board of police commissioners the appointment of such police matron shall be made by such board, or in counties where the prisoners of the county seat as a city, are confined in the county jail, the sheriff of said county shall appoint said matron. The respective hours of service of the police matron shall be so arranged by the authorities in charge that in the city of Detroit at least 1 matron shall at all hours of the day and night be on duty, and in each of the other cities 1 shall at all hours be near to and within call of each police station designated as above provided. Every police matron within the city of Detroit shall, during her hours of service, remain constantly on duty at the station at which she serves, and every police matron in each of the other cities shall reside at or near the station to which she is attached and

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shall hold herself in readiness to answer any call therefrom during her hours of service so long as any woman remains confined therein.

HISTORY: CL 1897, 3492;—CL 1915, 3487;—CL 1929, 2717;—CL 1948, 123.892.

NOTE: There is no section 3 to this act.

123.894 Police matrons; powers.

Sec. 4. The police matron shall have, subject only to the general control of the authorities in charge, the entire care of all women and children held under arrest in the station in which she serves or to which she is attached, and she may, at any time, call upon any police officer in such station for assistance.

HISTORY: CL 1897, 3493;—CL 1915, 3488;—CL 1929, 2718;—CL 1948, 123.894.

123.895 Suitable accommodations for women; duties of police matrons.

Sec. 5. In every station in which a police matron serves, or to which a police matron is attached, sufficient and proper accommodation shall be provided for women confined under arrest, and in case such accommodations shall be insufficient or improper, such matron shall notify the authorities in charge, who shall provide such sufficient and proper accommodations.

HISTORY: CL 1897, 3494;—CL 1915, 3489;—CL 1929, 2719;—CL 1948, 123.895.

123.896 Removal of female prisoner to station having police matron.

Sec. 6. Whenever in any city where any police matron shall be appointed under this act, a woman is arrested and taken to a police station to which a matron is attached, and where such matron is not then present, it shall be the duty of the officer in charge to cause such woman prisoner to be removed as soon as possible to the nearest station house to which a police matron is attached.

HISTORY: CL 1897, 3495;—CL 1915, 3490;—CL 1929, 2720;—CL 1948, 123.896.

123.897 Court attendance duties of police matron.

Sec. 7. At least 1 police matron shall be designated by the authorities in charge of said police station to attend before the police or other criminal courts at all times when any woman is to be arraigned before such court, and shall, in conjunction with some police officer, have charge of all women there in attendance awaiting trial or transfer from the court to any other place of detention.

HISTORY: CL 1897, 3496;—CL 1915, 3491;—CL 1929, 2721;—CL 1948, 123.897.

123.898 Definitions.

Sec. 8. In this act the expression "police station" shall include any place where persons are temporarily confined under arrest, and the expression "woman" shall include any person of female sex.

HISTORY: CL 1897, 3497;—CL 1915, 3492;—CL 1929, 2722;—CL 1948, 123.898.

123.899 Salary of police matrons.

Sec. 9. The salary of the police matrons in each city shall be fixed by the city council, except in cities having police commissioners the salary shall be fixed by the police commissioners, and where appointed by the sheriff the salary shall be fixed by the board of supervisors.

HISTORY: CL 1897, 3498;—CL 1915, 3493;—CL 1929, 2723;—CL 1948, 123.899.

Act 150, 1923, p. 217; Eff. Aug. 30.

AN ACT to authorize and empower counties, cities, villages and townships or any combination of them, to singly or jointly acquire by gift, devise or public condemnation a site or sites and/or construct, erect, lease, sub-lease and maintain public buildings for the purpose of housing within the same building or buildings city, county, village or township offices, and/or for any other public uses and purposes, which may

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include a memorial hall for war veterans of the United States of America and for public assemblage. Am. 1939, p. 682, Act 293, Eff. Sep. 29.

The People of the State of Michigan enact:

123.921 Public buildings; joint maintenance and acquisition.

Sec. 1. That whenever the legislative body of any county or township within the state of Michigan and the legislative body of any village or city situated in such county or township shall deem it expedient and for the public convenience and welfare that the offices of the city or village and county or township can be best maintained in the same building and when such legislative bodies shall have so declared by resolution, appearing upon the minutes of said bodies, it shall be lawful for such city or village and county or township and they are hereby authorized and empowered to contract to and with each other, through their proper representatives, for the joint acquiring and maintaining of a building or the acquiring of a site or sites and the erection, construction and maintenance of a building erected for and dedicated to public uses.

HISTORY: CL 1929, 2362;—CL 1948, 123.921.

123.922 Public buildings; contracts.

Sec. 2. The cities, villages, townships and counties aforesaid, acting under the provisions of this act, shall have power and are hereby authorized, through their proper agents, servants and employes to enter into the necessary contracts with each other and with other persons for the acquiring and maintaining of a building or the acquiring of a site or sites and the erection, construction and maintenance, either jointly or severally, in any manner which may be necessary and which they shall deem expedient for the purpose of establishing and maintaining joint ownership, operation and maintenance of a building or buildings to be used for public purposes to the extent and in the manner now provided by law.

HISTORY: CL 1929, 2363;—CL 1948, 123.922.

123.923 Public buildings; financing obligations; joint ventures.

Sec. 3. The cities, villages, townships and counties aforesaid, acting under the provisions of this act, shall have power and they are hereby authorized to raise by taxation or loan in sum or sums necessary for the payment of obligations entered into under the provisions of this act in the manner and to the extent provided by law for the acquiring and maintenance of public buildings by such municipalities, it being the intent and purpose of this act that counties and cities may enter into joint adventures in the erection of buildings for public purposes to the same extent and with the same authority and power that is granted to counties and cities for the purpose of maintaining separate public buildings.

HISTORY: CL 1929, 2364;—CL 1948, 123.923.

123.924 Public buildings; approval of contracts.

Sec. 4. Whenever a village or city or cities and a county or township shall desire to act under the provisions of this law, the relationship established between such municipalities and governmental agencies shall be fixed by contract and such contracts may be made by cities and counties under the provisions of this act in the manner and to the extent that natural persons might make contracts for like purposes. Such contracts before becoming operative shall be approved by a vote of a majority of all the members-elect of the legislative bodies of the counties and cities operating under the provisions of this act.

HISTORY: CL 1929, 2365;—CL 1948, 123.924.

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123.925 Public buildings; veterans' memorial hall; bonds, referendum, issuance.

Sec. 5. It shall be lawful for a county, city, village or township for itself and any other of said units of government to singly through its proper representatives acquire, construct, lease and maintain a building or buildings for the purpose of housing any of their offices, and/or facilities for any other public use and purpose of said units of government, and which building may be or include a memorial hall for war veterans of the United States of America and for public assemblage; and/or to acquire a site or sites therefor: Provided, however, No county, city, village or township shall for such joint purposes and uses acquire a site or sites and/or erect any building or buildings unless and until such unit of government shall have entered into a contract or contracts for the rental of a portion of such site or sites and/or quarters or space with each of the other participating units of government in such amount or amounts and for such period or periods of time and in such form as will provide revenues from payments to it of a reasonably proportionate or equitable share of the total cost thereof in relation to the portion, space, use and public benefits provided in such contract or contracts for the lessee or lessees. Such contract or contracts shall be executed following approval and authority therefor by a majority vote of the members elect of the legislative body of each unit of government participating in and a party thereto.

The county, city, village or township which singly acquires a site or sites and/or acquires, constructs and/or leases a building or buildings for the purposes authorized in this section may obtain funds for such purposes by gift and/or by means of general obligation bonds and/or by the issuance of self-liquidating revenue bonds to be paid from the revenues derived in pursuance of a contract or contracts as above provided and under the provisions of Act No. 94 of the Public Acts of 1933, as amended. In the event that the revenues to be derived under such contract or contracts shall be only sufficient to permit the issuance of revenue bonds for a portion of the cost of the site or sites and/or building or buildings, authority is hereby granted to issue revenue bonds to the extent to which such revenue shall permit: Provided, however, The entire improvement or improvements on which such revenue bonds are issued shall be subject to the provisions of Act No. 94 of the Public Acts of 1933, as amended: Provided further, That as a prerequisite to the lease or purchase of any property, the lease, purchase or construction of any building or buildings and/or the issuance of any revenue or general obligation bonds under the provision of this section, the board of supervisors of such county involved shall submit the question to the qualified electors of such county at the next general election or at a special election to be called by the board of supervisors of such county: Provided further, That if the majority vote of the qualified electors in the largest city of such county and a majority vote of the qualified electors in all the rest of such county shall vote in favor thereof the provisions of this section shall then become operative: Provided further, That no self liquidating revenue bonds shall be sold unless prior to the sale an advertisement shall be made of the date of the sale, the number and amount of bonds and/or other matters covering such revenue bonds: Provided further, That sealed bids shall be taken on the day of the sale of such bonds from any and all persons who may bid, and that such bonds shall be sold to the highest bidder at such sale: Provided further, That the corporation and securities commission of the state of Michigan shall pass upon and approve the form and general provisions of all such bonds before such bonds shall be sold: And provided further, That the proceeds derived from the sale of any and all such bonds shall be used only for the purpose of acquiring a site and/or constructing building or buildings, as authorized in this act, and shall be used for no other purpose.

The provisions of this section shall apply only to counties now having or which may hereafter have a population of 300,000 or over according to the latest federal census:

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Provided, That in any such county the provisions of this section shall not apply unless and until the board of supervisors of such county shall adopt a resolution in favor thereof by a 2/3 vote of the members-elect of said board.

HISTORY: Add. 1939, p. 682, Act 293, Eff. Sept. 29;—CL 1948, 123.925.

NOTE: Act 94, 1933, above referred to, is Compilers' §§ 141.101-141.136.

Act 31, 1948 (Ex. Ses.), p. 84; Imd. Eff. May 10.

AN ACT to provide for the incorporation of authorities to acquire, furnish, equip, own, improve, enlarge, operate and maintain buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use or benefit of any county or for the use or benefit of any county and any city or village therein, or for the use or benefit of any city, village or township or for the use of any school district and any city, village or township wholly or partially within the district's boundaries, or for the use of any intermediate school district and any constituent school district or any city, village or township, wholly or partially within the intermediate school district's boundaries; to provide for compensation of authority commissioners; to permit transfers of property to authorities; to authorize the execution of contracts, leases and subleases pertaining to authority property and the use thereof; to provide for the issuance of revenue bonds by such authorities; to validate action taken and bonds issued; and to provide other powers, rights and duties of authorities and incorporating units, including those for the disposal of authority property. Am. 1955, p. 24, Act 25, Imd. Eff. Apr. 7;—Am. 1964, p. 45, Act 41, Imd. Eff. May 6;—Am. 1967, p. 273, Act 200, Imd. Eff. Jun. 30;—Am. 1968, p. 150, Act 96, Imd. Eff. Jun. 6;—Am. 1969, p. 92, Act 46, Imd. Eff. Jul. 17;—Am. 1970, p. 134, Act 47, Imd. Eff. Jul. 2.

The People of the State of Michigan enact:

123.951 Local building authorities; incorporation; purposes.

Sec. 1. Any county, city, village or township may incorporate, as provided in this act, 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose of the county, city, village or township.

HISTORY: CL 1948, 123.951;—Am. 1954, p. 140, Act 113, Imd. Eff. Apr. 15;—Am. 1955, p. 24, Act 25, Imd. Eff. Apr. 7;—Am. 1964, p. 46, Act 41, Imd. Eff. May 6;—Am. 1968, p. 150, Act 96, Imd. Eff. Jun. 6;—Am. 1970, p. 134, Act 47, Imd. Eff. Jul. 2.

123.952 Joint buildings and parking lots; authorities, incorporation, purposes.

Sec. 2. Any county and any city, township or village therein, may incorporate 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose of such county and city, township or village.

HISTORY: CL 1948, 123.952;—Am. 1964, p. 46, Act 41, Imd. Eff. May 6;—Am. 1968, p. 150, Act 96, Imd. Eff. Jun. 6;—Am. 1969, p. 92, Act 46, Imd. Eff. Jul. 17;—Am. 1970, p. 134, Act 47, Imd. Eff. Jul. 2.

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123.952a Joint buildings and parking lots of school districts and municipalities; authorities, incorporation, acquisition, operation, maintenance; use.

Sec. 2a. A school district and a city, village or township wholly or partially within the district's boundaries may incorporate 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings and automobile parking lots or structures, and the necessary site or sites therefor, for the use of the school district and the city, village or township.

HISTORY: Add. 1967, p. 273, Act 200, Imd. Eff. Jun. 30;—Am. 1968, p. 151, Act 96, Imd. Eff. Jun. 6;—Am. 1969, p. 92, Act 46, Imd. Eff. Jul. 17.

123.952b Public buildings used for handicapped and retarded children; constituent school districts with intermediate school districts; authority, purpose.

Sec. 2b. An intermediate school district and a constituent school district or districts wholly or partially within the intermediate school district's boundaries may incorporate an authority for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings as a facility for handicapped, retarded or mentally disturbed children, and the necessary site or sites therefor, for the use of the intermediate school district and a constituent school district or districts pursuant to a contract between such intermediate school district and constituent school district or districts.

HISTORY: Add. 1968, p. 151, Act 96, Imd. Eff. Jun. 6.

123.953 Incorporating unit; definition.

Sec. 3. The term "incorporating unit" as used in this act shall be deemed to mean a county, city, village, township, intermediate school district or other school district incorporating an authority or joining in such incorporation.

HISTORY: CL 1948, 123.953;—Am. 1967, p. 273, Act 200, Imd. Eff. Jun. 30;—Am. 1968, p. 151, Act 96, Imd. Eff. Jun. 6.

123.954 Incorporation of authority; procedure.

Sec. 4. The incorporation of such an authority shall be accomplished by the adoption of articles of incorporation by the legislative body of each incorporating unit. For such adoption, the affirmative vote of the majority of the members elect of each such legislative body shall be required. The articles of incorporation shall be executed for and on behalf of each incorporating unit by the following officers, to-wit: For the county, by the chairman of the board of supervisors and county clerk; for the city, by its mayor and city clerk; for the village, by its president and clerk; for the township, by its supervisor and clerk; and for the school district or intermediate school district, by the president and secretary of the board of education. The clerk or secretary of each incorporating unit shall also affix to the articles of incorporation following the signatures thereto, a certificate in form substantially as follows:

"The foregoing articles of incorporation were adopted by the ..... of the ..... of ..... County, Michigan, at a meeting duly held on the ..... day of ....., 19....

Dated: ....., 19.....

.....

.....(Clerk/Secretary)"

HISTORY: CL 1948, 123.954;—Am. 1954, p. 140, Act 113, Imd. Eff. Apr. 15;—Am. 1967, p. 273, Act 200, Imd. Eff. Jun. 30;—Am. 1968, p. 151, Act 96, Imd. Eff. Jun. 6.

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123.955 County and municipal building authority; articles of incorporation, contents; commission, legislators ineligible.

Sec. 5. The articles of incorporation shall set forth the name of such authority; the name or names of the unit or units incorporating the same; the purpose for which the authority is created; the number, terms and manner of selection of its officers including its governing body which shall be known as the "commission"; the powers and duties of the authority and of its officers; the date upon which the authority shall become effective; the name of the newspaper in which the articles of incorporation shall be published; and any other matters expedient to be incorporated therein: Provided, however, That the members of the legislative body of each incorporating unit of a single authority as provided for in section 1 hereof shall not be eligible for membership or appointment to such authority.

HISTORY: CL 1948, 123.955;—Am. 1955, p. 208, Act 143, Eff. Oct. 14.

123.955a Board of commissioners; membership, term of office, meetings, duties.

Sec. 5a. Any joint building authority of any county and a city or village shall be directed and governed by a board of commissioners of 3 members, 1 to be elected by the board of supervisors of the county, 1 to be elected by the legislative body of the city or village, and 1 to be elected by the joint action of the board of supervisors of the county and the legislative body of the city or village. If the legislative bodies are unable to agree upon a choice for the third member within 60 days of the election of the first member, then the third member shall be appointed by the governor. The commissioners shall serve for 6-year terms. The commissioners shall designate 1 of their number as chairman and 1 as secretary, and shall adopt bylaws and rules of procedure and provide therein for regular meetings.

HISTORY: CL 1948, 123.955a;—Am. 1968, p. 151, Act 96, Imd. Eff. Jun. 6

123.955b Board of commissioners; compensation, per diem, mileage.

Sec. 5b. Members of the commission may be paid such compensation, and such per diem and mileage for attending meetings, as may be provided by the commission with the approval of the incorporating unit or units.

HISTORY: Add. 1968, p. 152, Act 96, Imd. Eff. Jun. 6.

123.956 Articles of incorporation; execution, filing, effective date.

Sec. 6. The articles of incorporation shall be executed in duplicate and delivered to the county clerk who shall file 1 such duplicate in his office and the other with the recording officer of the authority when selected. The county clerk shall cause a copy of the articles of incorporation to be published once in a newspaper designated in said articles of incorporation and circulating within the county. He shall file 1 printed copy of such articles of incorporation with the secretary of state and 1 printed copy in his office, attached to each of which printed copies shall be his certificate setting forth that the same is a true and complete copy of the original articles of incorporation on file in his office and also the date and place of the publication thereof. Such authority shall become effective at the time provided in the articles of incorporation. The validity of such incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of such certified copies with the secretary of state and the county clerk.

HISTORY: CL 1948, 123.956.

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123.957 Building authority; body corporate; powers.

Sec. 7. Such authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

HISTORY: CL 1948, 123.957.

123.958 Acquisition of property; leases and subleases; stadiums.

Sec. 8. The authority and any incorporating unit or units shall have power to enter into a contract or contracts whereby the authority will acquire property contemplated by the terms of this act and lease the same to the incorporating unit or units for a period not to exceed 50 years. The consideration specified in such contract for such use shall be subject to increase by the authority if necessary in order to provide funds to meet its obligations. Any rental obligation or consideration applicable to the incorporating unit or units under such contract, shall not be considered as indebtedness of the incorporating unit or units within the meaning of any statutory or charter debt limitation of such incorporating unit or units. With the consent of the authority as contained in the contract or otherwise secured, any incorporating unit or units to which the property is leased, may sublease the property or any part thereof to any 1 or more persons, firms or corporations or may contract for the use of the property or any part thereof by any 1 or more persons, firms or corporations, where the sublease or contract benefits and serves a legitimate public purpose of the sublessor. Any sublease or contract may extend for a period not to exceed 50 years and is not a franchise or grant within the meaning of any statutory or charter provision. The acquisition of any stadium with appurtenant properties and facilities by any authority and the contracting for the lease thereof by any incorporating unit or units, for the purpose of providing facilities for sports, recreational and other activities and events, with or without admission charges, and furnishing facilities for use or enjoyment by the public and to induce sports and entertainment organizations, whether amateur or professional, to utilize the facilities for games, contests and other performances and attractions and thus to increase business activity and employment, constitutes a benefit to and a legitimate public purpose of the authority and the incorporating unit or units. Where any stadium with appurtenant properties and facilities is acquired by an authority and leased to any incorporating unit or units, the subleasing thereof to, or the contracting for the use thereof by, any sports, entertainment or similar organization or any owner of a franchise in any professional sports or athletic league or association, in consideration of the agreement of the organization or owner and, if necessary, the league or association to hold, conduct or produce games, contests and other performances and attractions in such stadium, with or without admission charges, constitutes a benefit to and a legitimate public purpose of such incorporating unit or units.

HISTORY: CL 1948, 123.958;—Am. 1967, p. 274, Act 200, Imd. Eff. Jun. 30;—Am. 1970, p. 134, Act 47, Imd. Eff. Jul. 2.

123.959 Building authority; acquisition of property, condemnation.

Sec. 9. For the purpose of accomplishing the objects of its incorporation the authority may acquire property by purchase, construction, lease, gift, devise or condemnation, and for the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate statute.

The legislative body of any incorporating unit, by a majority vote of the members thereof, may transfer any real property except cemetery property owned by the incorporating unit to an authority established pursuant to this act.

HISTORY: CL 1948, 123.959;—Am. 1962, p. 13, Act 14, Imd. Eff. Mar. 14;—Am. 1968, p. 152, Act 98, Imd. Eff. Jun. 6.

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123.960 Amendment of articles of incorporation.

Sec. 10. Amendments may be made to articles of incorporation if adopted by the legislative body of each incorporating unit: Provided, That no such amendment shall impair the obligation of any bond or other contract. Any city or village which is the county seat of a county incorporating an authority under the provisions of this act, may become an incorporating unit of the authority by amendment to the articles of incorporation adopted by the legislative body of such city or village and by the legislative body of the county. Any such city or village shall thereafter be deemed to be an incorporating unit. Each amendment shall be adopted, executed and published, and certified printed copies filed, in the same manner as above specified for the original articles of incorporation, in so far as applicable.

HISTORY: CL 1948, 123.960.

123.961 Revenue bonds; issuance; contract obligations; referendum.

Sec. 11. For the purpose of acquiring, improving and enlarging any such building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, and furnishing and equipping the same, the authority may issue self-liquidating revenue bonds in accordance with and subject to the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, except that the bonds may be either serial bonds or term bonds or any combination thereof, as shall be determined by the authority. Such bonds shall be payable solely from the revenues of such property, which revenues shall be deemed to include payments made under any lease or other contract for the use of such property. Where and to the extent that the bonds are payable from revenues derived from payments to be made pursuant to any lease or other contract obligations, the bonds shall be deemed to be issued in anticipation of contract obligations and such obligations shall be deemed to be contract obligations in anticipation of which bonds are issued, within the meaning of section 6 of article 9 of the constitution. No such bonds shall be issued unless the property whose revenues are pledged has been leased by the authority for a period extending beyond the last maturity of the bonds. For the purpose of section 33 of Act No. 94 of the Public Acts of 1933, the limits of the authority shall be deemed to coincide with the limits of the incorporating unit, or in the case of a joint authority organized under section 2, with the limits of the county, or in the case of a joint authority organized under section 2a, with the combined limits of the incorporating units. If a sufficient referendum petition shall be filed as provided in section 33 requesting a referendum upon the question of the issuance of revenue bonds by the authority, then such question may be submitted by the commission of the authority at any general or special election or elections to be held in the incorporating unit or units whose limits coincide with those of the authority.

HISTORY: CL 1948, 123.961;—Am. 1965, p. 8, Act 5, Imd. Eff. Mar. 30;—Am. 1968, p. 152, Act 96, Imd. Eff. Jun. 6;—Am. 1970, p. 135, Act 47, Imd. Eff. Jul. 2.

123.962 Tax exemption for property.

Sec. 12. All property owned by any authority shall be exempt from taxation by the state or any taxing unit therein.

HISTORY: CL 1948, 123.962.

123.963 Bonds retired; conveyance of property.

Sec. 13. When all bonds issued pursuant to the provisions of this act shall have been retired, then the authority shall convey the title to the property acquired hereunder to the incorporating unit or units in accordance with the provisions therefor contained in the articles of incorporation, or, if there be no such provisions, then in accordance

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with the directions of the governing body of the incorporating unit or any agreement adopted by the respective governing bodies of the incorporating units.

HISTORY: CL 1948, 123.963;—Am. 1968, p. 152, Act 96, Imd. Eff. Jun. 6.

123.964 Construction of act.

Sec. 14. The powers herein granted shall be in addition to those granted by any statute or charter.

HISTORY: CL 1948, 123.964.

123.965 Validation of prior actions and bonds.

Sec. 15. All actions heretofore taken and all bonds heretofore issued in good faith under this act, as originally adopted or subsequently amended, and which actions and bonds do not violate the provisions of this act as amended by this 1970 amendatory act, are validated. No authority incorporated under this act, as originally adopted or subsequently amended, nor any incorporating unit or units thereof, shall contest the validity of any such bonds or any lease or contract which provides the security therefor after they have been sold and delivered and the authority has received the consideration therefor.

HISTORY: Add. 1955, p. 24, Act 25, Imd. Eff. Apr. 7;—Am. 1968, p. 152, Act 96, Imd. Eff. Jun. 6;—Am. 1970, p. 135, Act 47, Imd. Eff. Jul. 2.

Act 93, 1957, p. 107; Eff. Sep. 27.

AN ACT to provide for the annexation of state owned land by cities operating under a special charter.

The People of the State of Michigan enact:

123.981 Annexation of state owned land by cities under special charter.

Sec. 1. When a petition signed by the state by the appropriate agency designated by the state administrative board which holds the record legal title to the entire area of the land in the territory to be annexed, which is adjacent to any city operating under a special charter, is filed with the governing body of the city and with the township board of the township in which the territory is situated, the annexation shall be accomplished by the affirmative majority vote of the qualified and registered electors of such city voting on the question, and the affirmative majority vote of the qualified and registered electors of such township voting on the question.

Election, date, manner, costs.

The date of such election shall be determined by joint resolution of the governing body of the city and the township board, which date shall be at least 60 but not more than 90 days following the filing of the petitions unless a city or township election shall be held at least 45 but not more than 120 days from the date of the filing of the petition in which case such election shall be held on the same day as such city or township election. The governing body of the city and the township board shall forward a copy of the joint resolution to the county clerk of the county in which such city and township are located and the county clerk shall conduct such election in the same manner as county elections are conducted. All costs of ballots and other election supplies shall be borne by the city and township in proportion to the votes cast for governor in the last gubernatorial election.

HISTORY: New 1957, p. 107, Act 93, Eff. Sep. 27;—Am. 1958, p. 51, Act 50, Imd. Eff. Apr. 7.

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123.982 Prorating of state funds distributable to cities and townships; stipulation.

Sec. 2. Whenever any state owned land is annexed to any city operating under a special charter as provided in section 1, the city shall be entitled to its proper share from any future distribution of gasoline and motor vehicle weight tax revenues, intangibles tax revenues, state alcoholic liquor tax revenues, sales tax revenues or any other state funds, moneys or grants which by law are required to be distributed among cities, villages, townships or counties. The city and the township from which the territory was detached may agree by joint resolution of their governing bodies as to the prorating between them and between the city and any county agency receiving the funds, moneys or grants in respect to the population in the township of any funds, moneys or grants distributable by the state. A certified copy of the joint resolution shall be filed with the secretary of state and thereafter shall be binding on all parties to the annexation.

HISTORY: Add. 1958, p. 52, Act 50, Imd. Eff. Apr. 7.

123.983 Prorating of state funds; official special census.

Sec. 3. If within 45 days from the effective date of the annexation, the city and township from which the territory was detached cannot agree to a joint resolution as provided in section 2, an official special census shall be taken of the area detached from the township and of the entire township from which the area was detached. The census shall be taken by enumerators appointed by the secretary of state upon application of either the city or township. Each enumerator appointed to take such census shall receive for his services not to exceed $10.00 per day, together with his actual and necessary expenses therefor which sum shall be paid by the city or township within which the services of such enumerator were rendered. The ratio of population between the areas detached from the township and the remainder of the township shall be the basis for determination of the pro rata share of the state funds, moneys or grants to be distributed. The township from which the territory was detached or the county agency receiving the funds, moneys or grants in respect of population in the township shall be liable to the city for its proper pro rata share of any state funds, moneys or grants received by the township or county agency after the date of the annexation.

HISTORY: Add. 1958, p. 52, Act 50, Imd. Eff. Apr. 7.

Act 285, 1968, p. 486; Imd. Eff. Jul. 1.

AN ACT to prohibit the requiring of cities to reapportion wards or districts based on census data earlier than the 1970 decennial census.

The People of the State of Michigan enact:

123.991 Reapportioning wards or districts; cities nominating or electing governing bodies not required to reapportion.

Sec. 1. No city which nominates or elects all or part of its governing body from wards or districts shall be required to reapportion its wards or districts based on census data earlier than that contained in the 1970 decennial census.

HISTORY: New 1968, p. 486, Act 285, Imd. Eff. Jul. 1.

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Act 191, 1968, p. 285; Eff. Nov. 15.

AN ACT to create a state boundary commission; to prescribe its powers and duties; to provide for the incorporation and consolidation of cities and villages; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

123.1001 Definitions.

Sec. 1. As used in this act:

(a) "Commission" means the state boundary commission.

(b) "Secretary" means the executive secretary of the commission.

(c) "Municipality" means an incorporated city or village.

(d) "Municipal boundary adjustment" means incorporation of a new city or village, or consolidation of 2 or more cities, villages or townships as a new city.

HISTORY: New 1968, p. 285, Act 191, Eff. Nov. 15.

123.1002 State boundary commission; creation; members; vacancies; compensation; chairman.

Sec. 2. The state boundary commission is created consisting of 3 members appointed by the governor with the advice and consent of the senate. The term of office of members shall be 3 years and until their successors are appointed and qualified, except that of the members first appointed, 1 each shall serve for 1, 2 and 3 years. A member of the commission may be removed in the manner provided by law for removal of a public officer. A vacancy shall be filled for the unexpired term in the same manner as the original appointment. Members appointed by the governor shall be known as state members and shall qualify by taking and filing the constitutional oath of office. Each state member of the commission shall receive $35.00 per day while in session plus actual and necessary travel and other expenses in accordance with the provisions of the standard travel regulations issued by the department of administration. The governor shall designate a state member as chairman of the commission.

HISTORY: New 1968, p. 285, Act 191, Eff. Nov. 15.

123.1003 State boundary commission; employees and consultants.

Sec. 3. The commission may appoint such employees and retain such consultants as may be necessary, but who shall not be members of the commission, within limits of appropriations made for this purpose.

HISTORY: New 1968, p. 285, Act 191, Eff. Nov. 15.

123.1004 State boundary commission; offices and facilities; rules, regulations, and procedures; meetings; records; oaths.

Sec. 4. The commission shall be furnished with suitable office space and facilities in Lansing by the department of administration. The state members shall make rules and regulations and prescribe procedures necessary or desirable in carrying out the intent and purpose of this act, including forms of petitions for municipal boundary adjustments, and the documents, maps and supporting statements deemed to be necessary, establish rules for public hearings, for the submission of supplementary documents and statements, and governing the holding of elections where necessary. The state members shall meet when there are matters pending for their consideration and keep a record of all proceedings. The rules and regulations of the commission shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to the provisions of Act No. 197 of the Public Acts of 1952, as amended, being sections

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24.101 to 24.110 of the Compiled Laws of 1948. The state members of the commission may administer oaths to persons appearing before the commission.

HISTORY: New 1968, p. 285, Act 191, Eff. Nov. 15.

123.1005 State boundary commission; county members, appointment, term, vacancy, compensation and qualifications; municipal boundary adjustment.

Sec. 5. The presiding probate judge in each county shall appoint 2 persons to serve on the commission during such time as the commission shall have under consideration municipal boundary adjustments for territory lying within his county, 1 of whom shall reside in a township and 1 within a city. Within 30 days after notice from the commission that a boundary matter is pending in the county and the office of 1 or more of the county members is vacant, the presiding probate judge shall make original appointments and any appointment to fill a vacancy. A county member shall serve for 3 years and until his successor is appointed and qualified. If a municipal boundary adjustment involves territory lying in more than 1 county, the county members of the county in which the greater part of the territory to be incorporated or consolidated lies may serve on the commission. A county member shall receive per diem and expenses as authorized and paid by the county board of supervisors when serving on the commission on matters involving territory within his county. A county member shall qualify by taking and filing the constitutional oath of office.

HISTORY: New 1968, p. 286, Act 191, Eff. Nov. 15.

123.1006 State boundary commission; process of petitions; disposition.

Sec. 6. Except as otherwise provided in this act, the commission shall process all petitions in the order in which they are filed and shall finally dispose of a petition before taking up any other petitions which deal with all or any part of the same territory. With respect to petitions for annexation proceedings filed with the board of supervisors or petitions for incorporation or consolidation proceedings filed with the commission, covering all or any part of the same territory, the petition first filed shall be processed before and take precedence over a petition subsequently filed.

HISTORY: New 1968, p. 286, Act 191, Eff. Nov. 15.

123.1007 Proceedings for incorporation of municipalities; census.

Sec. 7. Proceedings for the incorporation of municipalities under this act shall be initiated in the manner prescribed in Act No. 278 of the Public Acts of 1909, as amended, being sections 78.1 to 78.28 of the Compiled Laws of 1948, for incorporation of villages and as prescribed in Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Compiled Laws of 1948, for incorporation of cities, except that henceforth all petitions for incorporation required by those acts to be filed with the board of supervisors or the secretary of state shall be filed with the commission and the commission shall exercise the powers and carry out the duties of the board of supervisors and the secretary of state in relation to such incorporations but, except as specifically otherwise provided in this act, all incorporations under this act shall be subject to the provisions of Act No. 278 and Act No. 279 of the Public Acts of 1909, as amended. No census of the territory affected by any incorporation or consolidation as provided in section 2 of Act No. 278 of the Public Acts of 1909, as amended, or by section 6 of Act No. 279 of the Public Acts of 1909, as amended, shall be taken unless specifically ordered by the commission. While this act is in effect no other means of incorporation of a city or village shall be effective.

HISTORY: New 1968, p. 286, Act 191, Eff. Nov. 15.

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123.1008 Review of proposed incorporation; certification; public hearing, notice; effect of order for public hearing.

Sec. 8. The commission shall review proposed incorporations taking into consideration the criteria established by section 9. If the commission finds that a petition does not conform to the provisions of this act or of the rules and regulations of the commission, it shall so certify, stating the reasons therefor, and return the petition to the person from whom it was received together with such certificate. Not less than 60 nor more than 180 days after the filing with the commission of a sufficient petition proposing incorporation, the commission shall hold a public hearing at some convenient place in the area proposed to be incorporated, at which public hearing the reasonableness of the proposed incorporation based upon the criteria established in this act shall be considered. The commission shall give notice of the hearing by publication in a newspaper of general circulation in the area at least 7 days before the date of the hearing, and to the clerks of municipalities and townships affected by certified mail, at least 30 days before the date of the hearing. After the commission has entered its order for a public hearing on an incorporation proposal, neither the sufficiency nor legality of the petition shall be questioned in any proceeding.

HISTORY: New 1968, p. 287, Act 191, Eff. Nov. 15.

123.1009 Review of proposed incorporation; criteria.

Sec. 9. Criteria to be considered by the commission in arriving at a determination shall be:

(a) Population; population density; land area and land uses; assessed valuation; topography, natural boundaries and drainage basins; the past and probable future urban growth, including population increase and business, commercial and industrial development in the area. Comparative data for the incorporating municipality, and the remaining portion of the unit from which the area will be detached shall be considered.

(b) Need for organized community services; the present cost and adequacy of governmental services in the area to be incorporated; the probable future needs for services; the practicability of supplying such services in the area to be incorporated; the probable effect of the proposed incorporation and of alternative courses of action on the cost and adequacy of services in the area to be incorporated and on the remaining portion of the unit from which the area will be detached; the probable increase in taxes in the area to be incorporated in relation to the benefits expected to accrue from incorporation; and the financial ability of the incorporating municipality to maintain urban type services in the area.

(c) The general effect upon the entire community of the proposed action; and the relationship of the proposed action to any established city, village, township, county or regional land use plan.

HISTORY: New 1968, p. 287, Act 191, Eff. Nov. 15.

123.1010 Denial or approval of proposed incorporation; revision of boundaries; submission of question to electors.

Sec. 10. After the public hearing on a proposed incorporation and review thereof by the commission, the commission may deny proposed incorporation or it may approve the petition and submit the question of incorporation to the electors residing in the municipality proposed to be incorporated as contained in the petition therefor or it may revise the boundaries of the area proposed for incorporation and submit the question of incorporation to the electors residing in the municipality proposed for incorporation in accordance with such revision.

HISTORY: New 1968, p. 287, Act 191, Eff. Nov. 15.

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123.1011 Succession to property and liabilities; division of properties; sharing of revenues; tax assessment and collection.

Sec. 11. Succession to property and liabilities, division of properties, sharing in revenue from various taxes and state funds distributable among local units and assessment and collection of taxes in newly incorporated municipalities shall be governed by the existing provisions of law.

HISTORY: New 1968, p. 287, Act 191, Eff. Nov. 15.

123.1012 Proceedings for consolidation; petition; inclusion of areas; consolidations that cannot be acted upon; submission to electors; election, procedures.

Sec. 12. Proceedings for consolidation may be initiated by the filing of a petition with the commission signed by a number of electors who are residents of 1 or more of the affected municipalities at least equal to 1% of the total population of the affected municipalities. Any township having a common boundary that is contiguous with a city or village proposed for consolidation may be included in the consolidation if no village is incorporated within the territorial boundaries of the township or, if 1 or more villages are incorporated within the territorial boundaries of the township, then such village or villages shall be included within the consolidation. When any township is included in a consolidation, the term "municipality" as used in sections 12, 13, 14, 15, 16 and 17 shall be deemed to include "township" and the procedures set forth in such sections shall be altered as may be necessary to provide for the township. The petition shall name the municipalities proposed to be consolidated and shall request the commission to take the proceedings necessary for consolidation under this act. No petition for consolidation shall be acted upon when a consolidation proposition affecting the same municipalities has been voted on within the preceding 2 years, nor when an annexation petition is pending as to any of the municipalities proposed for consolidation. In all other cases the commission shall submit the proposition to a vote of the electors of the affected municipalities. In order to be adopted, the proposition to consolidate shall receive an affirmative majority vote in each municipality affected. The secretary shall notify the clerk of each municipality affected by the consolidation of the date for the election and the question to be submitted. Each clerk shall arrange for an election on the question of the proposed consolidation and for the election of the charter commissioners to be elected from his municipality, and he shall follow the procedure prescribed in the state election law except as otherwise provided in this act.

HISTORY: New 1968, p. 287, Act 191, Eff. Nov. 15.

123.1013 Charter commissioners; qualifications, number; eligibility.

Sec. 13. At the same time as the election on the proposition of consolidation, the commission may call an election of 9 charter commissioners who shall be electors of the affected municipalities, each having a residence of at least 3 years in the municipality from which he is to be elected immediately prior to the filing of the consolidation petition. The commission shall determine the number of charter commissioners to be selected from each municipality affected by the consolidation, which number shall be proportionate as near as may be to its population. Each municipality is entitled to a minimum of 1 charter commissioner, regardless of population. If charter commissioners are elected at the same election at which the proposition to consolidate is submitted, the election shall be void if the proposition to consolidate is not adopted. If charter commissioners are not elected at such election they shall be elected at a separate election to be held within 60 days after a favorable vote on the proposition to consolidate, which election date shall be set by the commission. No municipal officer or employee, elected or appointed, is eligible to a place on the charter commission.

HISTORY: New 1968, p. 288, Act 191, Eff. 13, Nov. 15.

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123.1014 Form of ballot; election expenses; qualifications of the commissioners.

Sec. 14. The ballot to be used in an election on consolidation shall be substantially in the following form:

"For consolidation of the cities (and villages) of ..... and ..... (naming each city or village)

☐ Yes ☐ No"

Each city and village affected by the consolidation shall bear its own election expenses, the results shall be canvassed by the canvassing board of each city and village affected by the consolidation, and the returns thereof made to the commission. The nominations, qualifications of commissioners, form of ballot, election and all other things to be done in the election of commissioners, shall be as provided in section 15 of Act No. 279 of the Public Acts of 1909, as amended. The nomination and election in each city and village shall be separate, and the members of the charter commission from each city and village shall be the sole judge of the membership and qualifications of the commissioners elected from such city and village.

HISTORY: New 1968, p. 288, Act 191, Eff. Nov. 15.

123.1015 Charter commission; meeting, notice; procedure for adopting charter; powers, duties, and procedure of commission; adoption of charter.

Sec. 15. The charter commission shall meet for organization at the time and place to be designated by the secretary, who shall notify each member electing in writing thereof. The procedure for adopting a charter and the powers, duties and procedure of the charter commission shall be as prescribed in Act No. 279 of the Public Acts of 1909, as amended, except as otherwise prescribed in this act. When the charter commission has been elected, it shall proceed to formulate and prepare a charter, and agree upon a name or a choice of names for the consolidated city, which charter, when prepared, shall be submitted to the electors of the municipalities proposed for consolidation, for rejection or adoption. If the charter is adopted by a majority of the electors of each municipality affected, voting separately, the consolidation in the charter shall be operative at such time as shall be stated in the charter.

HISTORY: New 1968, p. 289, Act 191, Eff. Nov. 15.

123.1016 Charter of consolidated city; preparation, contents; effect of adoption of provisions in charter.

Sec. 16. In the preparation of a charter of a consolidated city, any power, limitation or provision granted to any of the cities or villages affected by the consolidation in any charter previously adopted by such city or village or granted or passed by the legislature for the government of such city or village and contained in the charter of the city or village at the time of the vote to consolidate may be included in the charter of the consolidated city, and when so included, such power, limitation, or the effect of any such provision shall continue with the same force and effect as when adopted by the city or village or granted or passed by the legislature in the first instance.

HISTORY: New 1968, p. 289, Act 191, Eff. Nov. 15.

123.1017 Corporate status of municipalities; effect of final adoption of charter; resubmission; effect of unfavorable vote, time.

Sec. 17. The corporate status of the cities and villages affected by the proposed consolidation shall not be changed or in any way affected until the final adoption of a charter. If the charter first submitted for adoption is not approved on the first vote taken by the electors, the charter commission may thereupon reconvene and prepare a new charter, or such modifications or amendments to the first charter as may seem ad-

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visable, and when so prepared shall submit the revised charter to the electors in the same manner and on a date to be fixed as in the first instance. If on submission of the second charter a favorable vote by a majority of the electors voting separately in the cities and villages affected by the consolidation is not obtained, the consolidation proceedings shall be ended and the charter commission shall have no further authority to act or to submit another charter to the electors. If no charter has been adopted within a period of 2 years following the election of the charter commission, the consolidation proceedings shall be ended.

HISTORY: New 1968, p. 289, Act 191, Eff. Nov. 15.

123.1018 Judicial review.

Sec. 18. Every final decision by the commission shall be subject to judicial review in a manner prescribed in Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 289, Act 191, Eff. Nov. 15.

123.1019 State boundary commission within department of treasury; establishment.

Sec. 19. The commission is established within the department of treasury.

HISTORY: New 1968, p. 289, Act 191, Eff. Nov. 15.

123.1020 Repeals.

Sec. 20. Act No. 390 of the Public Acts of 1913, being sections 123.21 and 123.22 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1968, p. 289, Act 191, Eff. Nov. 15.

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CHAPTER 124. MUNICIPALITIES—PARTICULAR POWERS

INTER-GOVERNMENTAL CONTRACTS BETWEEN MUNICIPAL CORPORATIONS

Act 35 of 1951

124.1 Municipal corporation; definition.
124.2 Inter-governmental contracts between municipal corporations; authorization.
124.3 Municipal service outside corporate limits of municipalities; contracts.
124.4 Public utility; joint ownership and operation.

MUNICIPAL RENTAL FACILITIES

Act 179 of 1962

124.51 Municipal buildings; rental of facilities to other governmental entities.

INDEMNIFICATION OF POLICEMEN

Act 59 of 1951

124.101-124.103 Repealed.

FEMALE BOX ELDER TREES

Act 32 of 1962

124.151 Female box elder trees; destruction as nuisance.

MUNICIPAL WATER SUPPLY SYSTEMS

Act 196 of 1952

124.251 Water supply system; definition.
124.252 Water supply system; authority, articles of incorporation, adoption, endorsement, form, publication, filing; validity.
124.253 Water supply system; articles, contents.
124.254 Water supply system; authority as body corporate; powers.
124.255 Water supply system; acquisition of property.
124.256 Water supply system; sale and purchase of water; contracts.
124.257 Water supply system; city, village or township may become constituent municipality; amendment of articles.
124.258 Water supply system; taxation, taxing power.
124.259 Water supply system; bonds, issuance, payment.
124.260 Water supply system; water service, determination.
124.261 Water supply system; jurisdiction; amendment of articles.
124.262 Water supply system; powers.

MUNICIPAL SEWAGE AND WATER SUPPLY SYSTEMS

Act 233 of 1955

124.281 Joint authority for acquiring sewage disposal and water supply systems; definitions.
124.282 Joint authority; incorporation, procedure.
124.283 Joint authority; articles of incorporation, contents.
124.284 Joint authority; body corporate, powers.
124.285 Joint authority; acquisition of property, condemnation.
124.286 Joint authority; subsequent addition of other municipalities; amendment of articles.
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Act 55 of 1963

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Act 204 of 1967

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124.502 Urban cooperation act; definitions.
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124.531 Definitions.
124.532 Authority to contract for transfer of functions or responsibilities.
124.533 Valid contracts; conditions.
124.534 Contents of contracts.
124.535 Joint board or commission; establishment; duty; membership.
124.536 Amendment or termination of contract.

Act 35, 1951, p. 37; Imd. Eff. May 8.

AN ACT to authorize inter-governmental contracts between municipal corporations; and to authorize any municipal corporation to contract with any person or any municipal corporation to furnish any lawful municipal service to property outside the corporate limits of the first municipal corporation for a consideration.

The People of the State of Michigan enact:

124.1 Municipal corporation; definition.

Sec. 1. For the purposes of this act "municipal corporation" shall mean any county, township, charter township, city or village, school district, metropolitan district, court district, public authority, or drainage district as defined by Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 278.27, inclusive, of the Compiled Laws of 1948, or any other local governmental authority or local agency with power to enter into contractual undertakings.

HISTORY: New 1951, p. 37, Act 35, Imd. Eff. May 8.

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124.2 Inter-governmental contracts between municipal corporations; authorization.

Sec. 2. Any municipal corporation shall have power to join with any other municipal corporation, or with any number or combination thereof by contract, or otherwise as may be permitted by law, for the ownership, operation, or performance, jointly, or by any 1 or more on behalf of all, of any property, facility or service which each would have the power to own, operate or perform separately.

HISTORY: New 1951, p. 37, Act 35, Imd. Eff. May 8.

124.3 Municipal service outside corporate limits of municipalities; contracts.

Sec. 3. Any municipal corporation shall have the right to contract with any person or any other municipal corporation to furnish to property outside the corporate limits of the first municipal corporation for an adequate consideration, any lawful municipal service which it is furnishing to property within its corporate limits. For the purposes of this section, "person" shall mean any person, firm, corporation, the United States government, or the state or any of its subdivisions.

HISTORY: New 1951, p. 37, Act 35, Imd. Eff. May 8.

124.4 Public utility; joint ownership and operation.

Sec. 4. Nothing contained in this act shall be construed to grant the right to jointly own or operate a public utility for supplying transportation, gas, light, telephone service, or electric power except as may be provided by the statutes or constitution of the state of Michigan, nor to contract to furnish municipal services outside corporate limits except in accordance with the constitutional limitations on such sales. Nothing contained in this act shall be construed as to grant to municipal corporations acting jointly any power or authority which they do not have acting singly.

HISTORY: New 1951, p. 38, Act 35, Imd. Eff. May 8.

Act 179, 1962, p. 385; Eff. Mar. 28, 1963.

AN ACT to authorize the erection of municipal buildings which contain facilities for rental.

The People of the State of Michigan enact:

124.51 Municipal buildings; rental of facilities to other governmental entities.

Sec. 1. When any municipality erects any building, whether financed by a sinking fund or by issuance of bonds, it may include in the building facilities for rental to any other governmental entity.

HISTORY: New 1962, p. 385, Act 179, Eff. Mar. 28, 1963.

124.101-124.103 Repealed. 1964, p. 225, Act 170, Eff. Jul. 1, 1965.

Sections authorized political subdivision indemnification of policemen for judgment recovered and to furnish counsel.

Act 32, 1962, p. 28; Eff. Mar. 28, 1963.

AN ACT to authorize townships, villages and cities to adopt ordinances providing for the destruction of female box elder trees.

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The People of the State of Michigan enact:

124.151 Female box elder trees; destruction as nuisance.

Sec. 1. Female box elder trees are hereby declared to be a public nuisance and the legislative body of any township, village or city may adopt an ordinance providing for the ordering by a designated authority of the destruction of female box elder trees.

HISTORY: New 1962, p. 28, Act 32, Eff. Mar. 28, 1963.

Act 196, 1952, p. 286; Imd. Eff. Apr. 29.

AN ACT to provide for the incorporation of municipal authorities to acquire, own and operate water supply systems; to prescribe the rights, powers and duties thereof; and to authorize contracts between such authorities and other public corporations.

The People of the State of Michigan enact:

124.251 Water supply system; definition.

Sec. 1. The term "water supply system", as herein used, shall be deemed to include all plants, works, instrumentalities and properties, used or useful in connection with the obtaining of a water supply, the treatment of water and/or the distribution and sale of water.

HISTORY: New 1952, p. 286, Act 196, Imd. Eff. Apr. 29.

124.252 Water supply system; authority, articles of incorporation, adoption, endorsement, form, publication, filing; validity.

Sec. 2. Any 2 or more cities, villages or townships (hereinafter sometimes referred to as "municipalities") or any combination thereof, may incorporate an authority for the purpose of acquiring, owning, and/or operating a water supply system or systems, by the adoption of articles of incorporation by the legislative body of each municipality. The fact of such adoption shall be endorsed on such articles of incorporation by the mayor and clerk in case of a city, the president and clerk in case of a village, and the supervisor and clerk in case of a township, in form substantially as follows:

"The foregoing Articles of Incorporation were adopted by the ..... of the ..... of ....., ... County, Michigan, at a meeting duly held on the ..... day of ....., 19.....

.....

..... of said .....

.....

..... of said ....."

The authority shall be comprised of the territory lying within such incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in said articles and circulating within the authority. One printed copy of such articles of incorporation certified as a true copy by the person or persons designated therefor, with the date and place of such publication, shall be filed with each, the secretary of state and the clerk of the county within which such territory or the major portion thereof is located. Such authority shall become effective at the time provided in said articles of incorporation. The validity of such incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of such certified copies with the secretary of state and the county clerk.

HISTORY: New 1952, p. 286, Act 196, Imd. Eff. Apr. 29.

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124.253 Water supply system; articles, contents.

Sec. 3. Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitations of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibilities of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as above provided, or who are charged with any other responsibility in connection with the incorporation of said authority, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

HISTORY: New 1952, p. 286, Act 196, Imd. Eff. Apr. 29.

124.254 Water supply system; authority as body corporate; powers.

Sec. 4. Such authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

HISTORY: New 1952, p. 286, Act 196, Imd. Eff. Apr. 29.

124.255 Water supply system; acquisition of property.

Sec. 5. The authority may acquire property for a water supply system by purchase, construction, lease, gift, devise or condemnation, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, as now or hereafter amended, or any other appropriate statute.

HISTORY: New 1952, p. 287, Act 196, Imd. Eff. Apr. 29.

124.256 Water supply system; sale and purchase of water; contracts.

Sec. 6. The authority and any of its constituent municipalities shall have authority to contract for the sale and purchase of water. The charges specified in such contract shall be subject to increase by the authority at any time if necessary in order to provide funds to meet its obligations. The authority and any city, village or township, which is not a constituent part thereof, may contract for the sale and purchase of water, which contract may provide for charges greater than those to the constituent municipalities, but the charges thereunder shall be subject to change by the authority from time to time. The authority and any other public corporation may enter into a contract for the purchase by the authority of water from such public corporation. Any contract authorized herein shall be for a period of not exceeding 50 years.

HISTORY: New 1952, p. 287, Act 196, Imd. Eff. Apr. 29.

124.257 Water supply system; city, village or township may become constituent municipality; amendment of articles.

Sec. 7. Any city, village or township, which did not join in the incorporation of an authority, may become a constituent part thereof by amendment to the articles of incorporation adopted by the legislative body of such city, village or township and by the legislative body of each city, village or township of which such authority is composed. Other amendments may be made to such articles of incorporation if adopted by the legislative body of each city, village or township of which the authority is composed. Any such amendment shall be endorsed, published, and certified printed copies filed, in the same manner as the original articles of incorporation, except that the printed copies shall be certified and filed by the recording officer of the authority.

HISTORY: New 1952, p. 287, Act 196, Imd. Eff. Apr. 29.

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124.258 Water supply system; taxation, taxing power.

Sec. 8. The legislative body of each city, village or township which is a part of such authority is authorized to raise by tax or pay from its general funds, any moneys required to be paid by the articles of incorporation or by the terms of any contract between it and the authority, unless some other method is provided therefor in such articles of incorporation or contract. The authority shall have no direct taxing power.

HISTORY: New 1952, p. 287, Act 196, Imd. Eff. Apr. 29.

124.259 Water supply system; bonds, issuance, payment.

Sec. 9. For the purpose of acquiring, improving, enlarging and/or extending a water supply system, the authority may issue self-liquidating revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948, as now or hereafter amended, or any other act providing for the issuance of such bonds: Provided, That no such bonds shall be a general obligation of the authority, but shall be payable solely from the revenues of the water supply system.

HISTORY: New 1952, p. 287, Act 196, Imd. Eff. Apr. 29.

124.260 Water supply system; water service, determination.

Sec. 10. Within the scope of the definition contained in section 1 of this act, any authority shall have the right to determine what shall constitute its water supply system and the functions thereof, and may determine that its water services shall be furnished to public corporations and/or private consumers.

The authority may also furnish water direct to any city water supply district as defined in section 3 of Act No. 107 of the Public Acts of 1941, as now amended, or to any similar independently financed and operated supply system in a prescribed water supply district. If the territory within such a water supply district shall become incorporated as a city, then any contract for supplying water by the authority to such district, shall remain in full force and effect during the life of such contract and shall be carried out by the authority and such city.

HISTORY: New 1952, p. 287, Act 196, Imd. Eff. Apr. 29.

124.261 Water supply system; jurisdiction; amendment of articles.

Sec. 11. No change in the jurisdiction over any territory in any city, village or township which has contracted for a supply of water from the authority, shall in any manner impair the obligations of such contract, but the same shall be carried out, insofar as such territory is concerned, by the authority and such municipality or municipalities as shall have jurisdiction to furnish water to such territory. No change in municipal jurisdiction over any territory within an authority shall in any manner affect the authority or its boundaries. If a new city shall be incorporated from a township in the authority and if such city shall exercise jurisdiction over the water supply system within its boundaries, then it shall be deemed to be a constituent municipality of the authority. If the territory within a water supply district, as defined in section 10 hereof, is incorporated as a new city having jurisdiction over the water supply system and if at the time of such incorporation there shall exist a contract with the authority for a water supply to such territory, then such city shall be a constituent municipality of the authority upon the approval of the legislative bodies of 2/3 of the cities, villages and townships constituting the authority and upon acceptance by the city of the articles of incorporation. If it shall be necessary to amend the articles of incorporation in order to give any such new city comparable rights with other constituent municipalities, the same may be accomplished upon the approval of the legislative bodies of 2/3 of the cities, villages and townships constituting the authority.

HISTORY: New 1952, p. 288, Act 196, Imd. Eff. Apr. 29.

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124.262 Water supply system; powers.

Sec. 12. The powers herein granted shall be in addition to those granted by any charter or other statute.

HISTORY: New 1952, p. 288, Act 196, Imd. Eff. Apr. 29.

Act 233, 1955, p. 346; Eff. Oct. 14.

AN ACT to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve and operate sewage disposal systems and water supply systems; to prescribe the rights, powers and duties thereof; to authorize contracts between such authorities and public corporations; and to provide for the issuance of bonds to acquire, construct, extend or improve sewage disposal systems or water supply systems.

The People of the State of Michigan enact:

124.281 Joint authority for acquiring sewage disposal and water supply systems; definitions.

Sec. 1. As used in this act:

(a) "Sewage disposal system," includes all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities and properties used or useful in connection with the collection, treatment or disposal of sewage or industrial wastes.

(b) "Water supply system," includes all plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water or the distribution of water.

(c) "Municipality," includes any county, township, charter township, incorporated city or incorporated village.

(d) "Constituent municipality" or "constituent municipalities" includes all of the municipalities which signed or became signatories of articles of incorporation of any authority incorporated under the provisions of this act, except where such authority is incorporated by 2 or more counties, in which event each municipality within the respective territorial limits of such counties as are either original incorporators or subsequently become a constituent part thereof under the provisions of section 6 of this act, shall be deemed to be a constituent municipality for the purposes of this act.

HISTORY: New 1955, p. 346, Act 233, Eff. Oct. 14;—Am. 1958, p. 36, Act 34, Imd. Eff. Apr. 3.

CITED IN OTHER SECTIONS: Sections 124.281 to 124.294 are cited in § 323.155.

124.282 Joint authority; incorporation, procedure.

Sec. 2. Any 2 or more municipalities may incorporate an authority for the purpose of acquiring, owning, improving, enlarging, extending and operating a sewage disposal system and/or a water supply system, by the adoption of articles of incorporation by the legislative body of each of the municipalities. The fact of such adoption shall be endorsed on such articles of incorporation by the chairman of the board of supervisors and the county clerk in case of a county; the mayor and clerk in case of a city; the president and clerk in case of an incorporated village; and the supervisor and clerk in case of a charter township or township, in form substantially as follows:

"The foregoing articles of incorporation were adopted by the ..... of the ..... of ..... County Michigan, at a meeting duly held on the ..... day of ....., 19.....

.....

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..... of said
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....."

The authority shall be comprised of the territory lying within such incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in said articles and having general circulation within the territory encompassed by the authority. One printed copy of such articles of incorporation certified as a true copy by the person or persons designated therefor, with the date and place of such publication, shall be filed with each the secretary of state and the clerk of the county within which such territory or the major portion thereof is located. Such authority shall become effective at the time provided in said articles of incorporation. The validity of such incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of such certified copies with the secretary of state and the county clerk.

HISTORY: New 1955, p. 347, Act 233, Eff. Oct. 14.

124.283 Joint authority; articles of incorporation, contents.

Sec. 3. Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitation of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibilities of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as above provided, or who are charged with any other responsibility in connection with the incorporation of said authority, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

HISTORY: New 1955, p. 347, Act 233, Eff. Oct. 14.

124.284 Joint authority; body corporate, powers.

Sec. 4. Such authority shall be a municipal authority and shall be a public body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto. The enumeration of any powers of this act shall not be construed as a limitation upon such general powers.

The authority is hereby authorized and empowered to

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter the same at pleasure.

(c) Maintain an office at such place or places within the state as it may designate.

(d) Sue and be sued in its own name, plead and be impleaded.

(e) Determine the location of any project constructed by it under the provisions of this act, and to determine, in its discretion and without reference to any other provisions of this act or any other law, the design, standards and the materials of construction, and construct, maintain, repair and operate the same, except the functions, powers and duties of the state commissioner of health in connection with any such public improvements shall remain unaffected by this act.

(f) Issue bonds of the authority for any of its corporate purposes under such means as may be provided in this act. If revenue bonds are issued under the provisions of section 12 of this act, or sections 12b and 12c of this act, they shall be payable solely from the revenues pledged for their payment, as provided in this act.

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(g) Establish rules and regulations for the use of any project constructed by it under the provisions of this act.

(h) Acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act.

HISTORY: New 1955, p. 347, Act 233, Eff. Oct. 14;—Am. 1958, p. 37, Act 34, Imd. Eff. Apr. 3.

124.285 Joint authority; acquisition of property, condemnation.

Sec. 5. The authority may acquire property for a sewage disposal system and/or a water supply system by purchase, construction, lease, gift, or devise, either within or without its corporate limits, and may hold, manage, control, sell, exchange or lease such property. For the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, or any other statute which grants to any municipality or public body the authority to acquire private property for public use.

HISTORY: New 1955, p. 347, Act 233, Eff. Oct. 14.

124.286 Joint authority; subsequent addition of other municipalities; amendment of articles.

Sec. 6. Any municipality which did not join in the incorporation of an authority may become a constitutent [sic] part thereof by amendment to the articles of incorporation adopted by the legislative body of such municipality and by the legislative body of each municipality of which such authority is composed. Other amendments may be made to the articles of incorporation if adopted by the legislative body of each municipality of which the authority is composed. Any such amendment shall be indorsed, published, and certified printed copies filed, in the same manner as the original articles of incorporation, except that the printed copies shall be certified and filed by the recording officer of the authority.

HISTORY: New 1955, p. 348, Act 233, Eff. Oct. 14;—Am. 1957, p. 473, Act 299, Imd. Eff. Jun. 19.

124.287 Joint authority; contracts to acquire system; financing.

Sec. 7. The authority and any of its constitutent [sic] municipalities are authorized to enter into a contract or contracts providing for the acquisition, construction, improvement, enlargement, extension, operation and financing of a sewage disposal system and/or a water supply system, which contract or contracts shall provide for the allocation and payment of the share of the total cost to be borne by each such municipality in annual installments for a period of not exceeding 40 years. Each contracting municipality is authorized to pledge its full faith and credit for the payment of said obligation in the manner and times specified in the contract or contracts, in which event it shall be the duty of each such contracting municipality to include in its annual tax levy an amount sufficient so that the estimated collections therefrom will be sufficient to promptly pay when due such portion of such obligation falling due before the time of the following year's tax collection. No limitation in any statute or charter shall prevent the levy and collection by each of said contracting municipalities of the full amount of taxes necessary for the payment of said contractual obligation. If at the time of making such annual tax levy, there are other funds on hand earmarked for the payment of said contractual obligation, then credit therefor may be taken upon such annual levy for the payment of such obligation. Such other funds may be raised by each contracting municipality by the use of any, or all, or any combination of the following additional methods: (a) The levy of special assessments on property benefited by such sewage disposal system and/or water supply system, the procedures relative to the levying and collection of such special assessments to conform as near as may be to applicable charter or statutory provisions therefor except that no petition shall be required from property owners; (b) the levy and collection of rates or charges to users and ben-

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eficiaries of the service or services furnished by the sewage disposal system and/or water supply system; (c) the exaction of connection charges to be paid by owners of land directly or indirectly connected with such sewage disposal system or water supply system; (d) from moneys received, or to be received, derived from the imposition of taxes by the state of Michigan, except as the use of such money for such purpose is expressly prohibited by the constitution of the state of Michigan; and (e) from any other fund or funds which may be validly used for such purpose. Such contract or contracts may provide for any and all matters relating to the acquisition, construction, operation and financing of the sewage disposal system and/or water supply system as are deemed necessary, including authorization to the authority to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized by section 9 of this act. Said contract or contracts may provide for appropriate remedy or remedies in case of default.

HISTORY: New 1955, p. 348, Act 233, Eff. Oct. 14;—Am. 1957, p. 474, Act 299, Imd. Eff. Jun. 19.

124.288 Joint authority; contract with constituent municipality, execution; referendum, petitions.

Sec. 8. Any municipality desiring to enter into a contract with the authority under the provisions of section 7 hereof shall authorize, by resolution of its governing body, the execution of such contract, which resolution shall be published in some newspaper of general circulation within such municipality, and such contract may be executed without a vote of the electors thereon upon the expiration of 30 days after the date of such publication unless, within said 30-day period, a petition signed by not less than 10% of the registered electors residing within the limits of such municipality shall have been filed with the clerk thereof requesting a referendum upon the execution of such contract, and in that event such contract shall not be executed until approval by the vote of a majority of the electors of such municipality qualified to vote and voting thereon at a general or special election to be held not more than 90 days after the filing of such petition. Any special election called for such purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any such petition shall be verified by some person or persons under oath, as the actual signatures of the persons whose names are signed thereto, and the clerk of the municipality shall have the same power to reject signatures as city clerks under the provisions of section 25 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.25 of the Compiled Laws of 1948. The number of registered electors in any municipality shall be determined by the registration books as of the date of the filing of said petition.

HISTORY: New 1955, p. 348, Act 233, Eff. Oct. 14.

124.289 Joint authority; bonds, contracts.

Sec. 9. For the purpose of obtaining funds for the acquisition, construction, improving, enlarging or extending of the sewage disposal system and/or water supply system authorized by this act, the authority, after the execution of the contract or contracts authorized by sections 7 and 8 of this act, upon ordinance or resolution duly adopted by it, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization contained in this act and the contract or contracts entered into pursuant to said sections 7 and 8. Said bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 4 years from the date of issuance, and the last of which shall fall due not more than 40 years from the date of issuance, and no maturity after 4 years from date of issuance shall be less than 1/4 the amount of any subsequent maturity. Save as herein otherwise provided, said bonds shall be issued and sold and subject to all other applicable provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections

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131.1 to 138.2, inclusive, of the Compiled Laws of 1948. The ordinance or resolution authorizing the issuance of said bonds shall have embodied therein the terms of the contract or contracts authorized by sections 7 and 8 of this act.

HISTORY: New 1955, p. 349, Act 233, Eff. Oct. 14.

124.290 Joint authority; contracts with other municipalities for service; income; duration.

Sec. 10. The authority and any constituent or non-constituent municipality thereof may contract for the furnishing of water or sewage disposal services by the authority to the municipality. Any charges or rates specified in such a contract shall be subject to change by the authority from time to time if necessary to meet its obligations. The charges or rates to a non-constituent municipality may be greater than those to constituent municipalities. The authority and any other public corporation may contract for the furnishing of water or sewage disposal services by such other public corporation to the authority or may contract for the use by the authority of any of the facilities of the water supply system or sewage disposal system, including sewers, of the other public corporation. Any lump sum payment for such use may be considered as a part of the cost of the authority system and may be financed the same as other capital costs are financed under this act. Any contract authorized in this section shall be for a period not exceeding 40 years. Any such contract shall be a general obligation of the municipality.

HISTORY: New 1955, p. 349, Act 233, Eff. Oct. 14;—Am. 1957, p. 474, Act 299, Imd. Eff. Jun. 19.

124.291 Acquisition of water systems; change in municipal jurisdiction of territory.

Sec. 11. No change in the jurisdiction over any territory in any municipality which has contracted with the authority for the acquisition, construction and financing of a sewage disposal system and/or water supply system under the provisions of this act, or has contracted with the authority for sewage disposal service or water services, shall in any manner impair the obligations of any such contract. In event of any such change in jurisdiction over territory, any such contract shall be carried out insofar as such territory is concerned by the authority and the municipality as shall have jurisdiction to furnish water or sewage disposal services, as the case may be, to such territory, unless the foregoing would operate to impair a contract obligation, in which case the contracting municipality shall retain jurisdiction over such territory for the purpose of carrying out its said contractual obligations. No change in municipal jurisdiction over any territory within an authority shall in any manner affect the authority or its boundaries.

HISTORY: New 1955, p. 349, Act 233, Eff. Oct. 14;—Am. 1957, p. 475, Act 299, Imd. Eff. Jun. 19.

124.292 Joint authority; revenue bonds; other methods of financing.

Sec. 12. In lieu of the provisions in sections 7, 8 and 9 of this act, in respect to the acquisition, construction, improvement, enlargement, extension or financing of a sewage disposal system or water supply system, the authority may elect to proceed under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, or any other act authorizing the issuance of revenue bonds, whereby the financing of any such project would be consummated by the issuance of revenue bonds payable from the revenues of the system or systems. In such event the charges and rates for service in any contract entered into under the provisions of section 10 of this act shall be sufficient to satisfy the provisions of the act under which revenue bonds shall be issued. Any project may be financed in part under the provisions of sections 7, 8 and 9 of this act and in part under the provisions of this section.

HISTORY: New 1955, p. 350, Act 233, Eff. Oct. 14;—Am. 1957, p. 475, Act 299, Imd. Eff. Jun. 19.

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124.292a Acquisition of water systems; pledge of municipal share of sales tax revenues.

Sec. 12a. Any municipality contracting with the authority, either under the provisions of section 7 or section 12 of this act, as additional security for the payment of its contractual obligations, may by resolution of its governing body, irrevocably pledge not to exceed 25% of the moneys derived from the state sales tax levied pursuant to law, and from time to time returned to it under the provisions of section 23, article 10 of the Michigan constitution, to the payment of its said contractual obligations, and such resolution may also authorize and direct the county treasurer or other official charged with the disbursement of such funds, to withhold and pay over to the authority sufficient of such moneys to make up any deficiency in funds to meet its contractual obligations.

HISTORY: Add. 1957, p. 475, Act 299, Imd. Eff. Jun. 19.

124.292b Acquisition of water systems; projects over $50,000,000, financing; costs, definition.

Sec. 12b. (1) As an additional or alternative method of financing a water supply system or sewage disposal system, hereinafter generally referred to in this section and section 12c as the "project", any authority proposing a project to cost a sum of $50,000,000.00 or more for such purposes, is authorized to proceed under the provisions of this section and section 12c. In such event the authority is hereby authorized by resolution or resolutions of its governing body to provide for the issuance of revenue bonds for the purpose of paying all or any portion of the cost of the project, or for the purpose of refunding the bonds, including refunding bonds, or for any combination of such purposes. The term "cost of the project" includes all expenditures made in connection with the acquisition and construction thereof, financing charges, interest to accrue on the bonds during the period of construction of the project and for a period of not to exceed 1 year thereafter, cost of engineering and legal expenses, plans, specifications and surveys, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expense, and such other expense as may be necessary or incident to the construction of the project, the financing of the project and the placing of the project in operation, including the repayment of any moneys advanced by constituent municipalities of the authority for any of the above purposes. The authority may enter into such contracts for financial, fiscal agents, legal or engineering services in connection with the financing and construction of the project as it deems necessary and advisable. The authority shall not contract for the payment of stand-by bids or finders' fees.

Project revenue bonds, payment, terms, additional bonds at parity, signatures, tax exemption, interest, approval, regularity.

(2) Principal of and interest and redemption premiums on the bonds issued under this section shall be payable solely from the revenues of the project, except that payments may also be made from the proceeds of refunding bonds issued under this section. The term "revenues of the project" as used in this section and section 12c means revenues derived from contracts with municipalities entered into pursuant to the provisions of section 10 of this act, and all other sources of revenue of the authority derived from the operation of the project. The bonds may be either serial bonds or term bonds, or any combination thereof. Any serial bonds shall have annual or semiannual maturities, the first maturity of which shall be payable not more than 10 years from their date. Any bonds shall be redeemable commencing with an interest payment date to be determined at such prices and upon such terms and conditions as prescribed by the authorizing resolution of the governing body of the authority, and recited upon the face of the bonds. The bonds shall mature not more than 40 years from their date,

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shall be coupon bonds bearing interest at not more than 6% per annum, payable semi-annually, except as to the first coupon, which may be for any number of months not exceeding 10, shall be payable in such medium, shall be in such form and executed in such manner, shall have such privilege of registration as to principal or principal and interest, shall be payable at such places within or without the state, and shall otherwise have such other details as may be fixed by resolution of the governing body of the authority. The resolution of the governing body of the authority may provide the terms and conditions under which additional revenue bonds may be issued, having parity of lien with those issued and outstanding for the purpose of completing the project or providing for additions, extensions and improvements thereto. All bonds issued under the provisions of this section shall contain a statement on their face that they are payable solely and only from the revenues of the authority specifically pledged for their payment, and that the authority is authorized to pay such bonds and interest only from the revenues pledged thereto under the provisions of this section. If any official whose signature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, the signature shall nevertheless be valid and sufficient for all purposes with like effect as though the person had remained in office until delivery. All such bonds are hereby declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the negotiable instruments law of the state, subject only to the provisions for registration of the bonds which may appear therein. The bonds shall be exempt from all taxation by the state or any of its political subdivisions, and may be sold by the governing body of the authority in such manner as it, in its sole discretion, determines to be in the best interest of the authority, but no sale shall be made at a price that will result in an interest cost of more than 6% per annum. The issuance and sale of bonds shall not be subject to the approval or authorization of any other agency of government, whether federal, state or local, but shall be entirely within the discretion and judgment of the governing body of the authority. Prior to the preparation of definitive bonds, the governing body of the authority may provide for the issuance of temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The proceedings authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

HISTORY: Add. 1958, p. 37, Act 34, Imd. Eff. Apr. 3.

124.292c Trust indenture; terms, engineering supervision.

Sec. 12c. (1) In the discretion of the governing body of the authority, any series of bonds issued pursuant to the authorization of section 12b of this act may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, but no trust indenture shall convey or mortgage the project or any part thereof. Either the resolution providing for the issuance of bonds or the trust indenture may contain such provisions for the security and payment of the bonds and for the protection and enforcement of the rights and remedies of the bondholders as may be deemed advisable by the governing body of the authority, not in violation of the constitution of this state, including specifically covenants setting forth:

(a) The duties of the authority in relationship to the construction, maintenance, operation, repair and insurance of the project;

(b) The pledge of revenues of the project or any part thereof;

(c) Limitations on the amount of money derived from the operation of the project which may be expended for operating, administrative or other specified expenses of the authority;

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(d) The safeguarding and application of the fund from which the cost of the project is to be paid and of the revenues pledged to the payment of the bonds, all of which may be deposited in as received and paid out by such banks as may be therein provided;

(e) Provisions for the employment of consulting engineers to supervise the construction of the project, and to supervise its maintenance and operation, to which consulting engineers may be delegated all rights and duties with respect thereto deemed advisable by the governing body of the authority and the appointment of which consulting engineers shall be subject to such approval by the purchasers or holders of the bonds as may be provided in such resolution or indenture;

(f) Rights and remedies of the bondholders and the trustee, if any, and such restrictions thereon as may be considered advisable; and

(g) Any other and additional provisions ordinarily found in trust agreements securing bond issues protecting and enforcing the rights and security of the holders of the bonds and designed to make the bonds more attractive and salable at the best available prices.

Same; annual audit.

(2) The resolution or trust indenture shall contain a provision requiring an annual audit of the books and records of the authority, or any fiscal agent or trustee specified in such resolution or trust indenture by a certified public accountant or accountants to be selected by the governing body of the authority and approved by the manager or managers of the account purchasing the bonds.

Same; trustee's collateral security; expenses, default.

(3) Any bank or trust company designated as trustee or as depositary for any funds, notwithstanding any provision of law to the contrary, is authorized to pledge as collateral security for moneys deposited in such bank or trust company direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by the government of the United States, or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having a market value, exclusive of accrued interest, at least equal to the amount of the deposit; or in lieu of the collateral security as to all or any part of the deposit, there may be lodged with the trustee, or with the governing body of the authority in case of moneys deposited or remaining on deposit with the trustee, and remain in full force and effect as security for the moneys deposited, the indemnifying bonds of a surety company or companies qualified as surety for deposits of the government of the United States and qualified to transact business in the state, in a sum at least equal to the amount of moneys deposited with such bank or trust company, if such indemnity bond or bonds be approved by the governing body of the authority. All expenses incurred in carrying out the provisions appearing in any trust indenture or bond resolution and the cost of any surety bond furnished may be treated as part of the cost of maintaining and operating the project. The resolution or trust indenture may contain such other provisions as the governing body of the authority may deem reasonable and proper for the security of the bondholders, including, but without limitation, covenants prescribing all happenings or occurrences which constitute events of default and the terms and conditions upon which bonds may become or be declared to be due before maturity and as to the rights, liabilities, powers and duties arising upon the breach by the authority of any of its duties and obligations.

Restriction to revenue bonds.

(4) Nothing contained in the 1958 amendments to this act shall be construed to authorize the issuance of other than revenue bonds.

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Municipal finance commission approval.

(5) Bonds issued under sections 12b and 12c of this act shall be subject to the prior approval of the municipal finance commission in accordance with the provisions of Act No. 202, of the Public Acts of Michigan of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948.

HISTORY: Add. 1958, p. 39, Act 34, Imd. Eff. Apr. 3.

124.293 Constituent municipalities; taxing power.

Sec. 13. The legislative body of each municipality which is a member of the authority is authorized to raise by tax or pay from its general funds, any moneys required to be paid by the articles of incorporation for administrative expenses or for the purpose of obtaining maps, plans, designs, specifications and cost estimates of a proposed sewage disposal system or water supply system. The authority shall have no direct taxing power.

HISTORY: New 1955, p. 350, Act 233, Eff. Oct. 14.

124.294 Constituent municipalities; additional powers.

Sec. 14. The powers herein granted shall be in addition to those granted by any charter or other statute.

HISTORY: New 1955, p. 350, Act 233, Eff. Oct. 14.

Act 55, 1963, p. 62; Imd. Eff. Apr. 29.

AN ACT to provide for the incorporation of public authorities to acquire, own and operate or cause to be operated mass transportation systems; to prescribe the rights, powers and duties hereof; and to authorize contracts between such authorities and either public or private corporations to carry out the operation of such systems.

The People of the State of Michigan enact:

124.351 Mass transportation system; definition.

Sec. 1. "Mass transportation systems" means all plants, equipment, work instrumentalities, real and personal property and rights, used or useful for transportation of passengers for hire, except taxicabs and airport limousines.

HISTORY: New 1963, p. 62, Act 55, Imd. Eff. Apr. 29.

124.352 Mass transportation system; establishment of authority by city; articles of incorporation.

Sec. 2. The legislative body of any city now or hereafter having a population of not more than 300,000 may incorporate a public authority for the purpose of acquiring, owning, operating or causing to be operated, a mass transportation system in the city and 10 miles outside the city. The authority shall not provide service in a locality outside of a city where alternative mass public transportation exists. Such authority shall not engage in operations more than 10 miles beyond the corporate limits of the incorporating city without first complying with the provisions of Act. No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.49 of the Compiled Laws of 1948. In respect to the conduct of those of its operations whether over regular routes or irregular routes or in charter service which extend beyond the corporate limits of the city and 10 miles thereof, such authority shall be deemed a common motor carrier of passengers as defined in Act No. 254 of the Public Acts of 1933, as amended, and shall be subject to all of the provisions thereof. The incorporation shall be accomplished by adoption of articles of incorporation by an affirmative vote of a majority of the members elect of the legislative body of the city. The fact of adoption shall be in-

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dorsed on the articles of incorporation by the mayor and clerk of the city in form substantially as follows:

"The foregoing articles of incorporation were adopted by an affirmative vote of a majority of the members elect of the (name of legislative body) of the city of ....., ... county, Michigan, at a meeting duly held on the ..... day of ....., A.D. 1963".

.....
Mayor

.....
Clerk

The articles of incorporation shall be published at least once in a newspaper designated in the articles and circulated within the area proposed to be served by the mass transportation system. One printed copy of such articles of incorporation certified as a "true copy" by the person or persons designated with the date and place of the publication, shall be filed with the secretary of state and with the clerk of the county within which the area to be served by the mass transportation system is located. The authority shall become operative at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and with the county clerk.

HISTORY: New 1963, p. 62, Act 55, Imd. Eff. Apr. 29;—Am. 1969, p. 389, Act 212, Eff. Mar. 20, 1970.

124.353 Articles of incorporation; contents.

Sec. 3. The articles of incorporation shall state the name of the authority, the purposes for which it is created, the power, duties and limitations of the authority and its officers, the method of selecting its governing body and officers, the person or persons who are charged with the responsibility of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as provided in section 2, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and the statutes of the state.

HISTORY: New 1963, p. 62, Act 55, Imd. Eff. Apr. 29.

124.354 Authority as body corporate; powers.

Sec. 4. The authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and all things incident thereto. The authority by contract may employ a management firm, either corporate or otherwise, to actually operate the mass transportation system, under the supervision of the authority. The enumeration of powers of this act shall not be construed as a limitation on such general powers.

HISTORY: New 1963, p. 63, Act 55, Imd. Eff. Apr. 29.

124.355 Authority as body corporate; property; condemnation.

Sec. 5. The authority may acquire property for a mass transportation system by purchase, construction, lease, gift or devise, either within or without the area served by such mass transportation system and may hold, manage, control, sell, exchange or lease such property. The authority may utilize any appropriate statute for the purpose of condemnation. Such condemnation proceedings shall only be applicable to property located within the corporate boundaries of the political subdivision or subdivisions by which the authority is incorporated within the corporate boundaries of the authority.

HISTORY: New 1963, p. 63, Act 55, Imd. Eff. Apr. 29.

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124.356 Fares; contracts.

Sec. 6. The authority shall have authority to charge such fares and enter into contracts for the service provided by the mass transportation system as shall be necessary to provide funds to meet the obligations of said authority.

HISTORY: New 1963, p. 63, Act 55, Imd. Eff. Apr. 29.

124.357 Self-liquidating revenue bonds.

Sec. 7. For the purpose of acquiring, improving, enlarging or extending a mass transportation system, the authority may issue self-liquidating revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948, or any other act providing for the issuance of such bonds. No such bonds shall be a general obligation of the authority, but shall be payable solely from the revenues of the mass transportation system.

HISTORY: New 1963, p. 63, Act 55, Imd. Eff. Apr. 29.

124.358 Exemption from taxes; property.

Sec. 8. All property owned by or leased to the authority shall be exempt from all taxes levied by the state and by the political subdivisions in which the authority is incorporated. All such leased property in order to be exempt shall be used and owned by the company which is under contract with the authority for the operation of the authorities transit system. The authority shall be required to pay taxes or assessments upon its real and personal property situated outside the corporate boundaries in which the authority is incorporated.

HISTORY: New 1963, p. 63, Act 55, Imd. Eff. Apr. 29;—Am. 1965, p. 387, Act 224, Imd. Eff. Jul. 16.

124.359 Additional powers.

Sec. 9. The powers granted by this act are in addition to those granted by any other statute.

HISTORY: New 1963, p. 63, Act 55, Imd. Eff. Apr. 29.

Act 204, 1967, p. 276; Imd. Eff. Jul. 10.

AN ACT to create metropolitan transportation authorities and to define their powers and duties.

The People of the State of Michigan enact:

124.401 Metropolitan transportation authorities; short title.

Sec. 1. This act shall be known and may be cited as the "metropolitan transportation authorities act of 1967".

HISTORY: New 1967, p. 276, Act 204, Imd. Eff. Jul. 10.

124.402 Metropolitan transportation authorities act; definitions.

Sec. 2. As used in this act:

(a) "Authority" means a metropolitan transportation authority created pursuant to this act.

(b) "Board" means the governing and administrative body of the authority.

(c) "Governor" means the governor of the state.

(d) "Metropolitan area" means an area conforming in general to a standard metropolitan statistical area as defined by the United States bureau of the budget or 2 or more counties which form a generally recognized urban complex.

(e) "Public transportation facility" means all property, real and personal, useful for the transportation of passengers for hire, including but not limited to street railways, motor bus, tramlines, subways, monorails, rail rapid transit, tunnel, bridge and parking

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facilities used in connection with the operations of the authority but shall not include taxis, limousines, highways, ports and airports.

HISTORY: New 1967, p. 276, Act 204, Imd. Eff. Jul. 10.

124.403 Authorities; powers.

Sec. 3. Authorities created under this act shall plan, acquire, construct, operate, maintain, replace, improve, extend and contract for public transportation facilities. An authority is a public benefit agency and instrumentality of the state with all the powers of a public corporation, for the purpose of planning, acquiring, constructing, operating, maintaining, improving and extending public transportation facilities, and for controlling, operating, administering and exercising the franchise of such transportation facilities, if any, including charter operations as acquired.

HISTORY: New 1967, p. 277, Act 204, Imd. Eff. Jul. 10.

124.404 Authorities; establishment.

Sec. 4. Regional transportation authorities in major metropolitan areas of the state may be established at such time as 1 or more contiguous counties elect by majority vote of the boards of supervisors to establish or participate in an authority.

HISTORY: New 1967, p. 277, Act 204, Imd. Eff. Jul. 10.

124.405 Southeastern Michigan transportation authority; establishment, withdrawal of counties.

Sec. 5. The southeastern Michigan transportation authority which shall include the counties of Macomb, Monroe, Oakland, St. Clair, Washtenaw and Wayne is established, but any county choosing not to participate in the authority may withdraw by a majority vote of its elected board of supervisors within 1 year after the establishment of the authority and by a 2/3 vote of the board of supervisors at any time thereafter.

HISTORY: New 1967, p. 277, Act 204, Imd. Eff. Jul. 10.

124.406 Authorities; additional powers and duties.

Sec. 6. Any authority, in addition to its other powers and duties, may:

(a) Adopt rules to accomplish the purposes of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 if the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(b) Plan, acquire, construct, operate, maintain, replace, improve, extend and contract for transportation facilities within the area included within the metropolitan transportation authority and for a distance of 10 miles beyond any portion of the limits of the authority if there is no similar authority established or operating public transportation facilities within such 10 mile extra-territorial distance.

(c) Acquire and hold, by purchase, lease, grant, gift, devise, bequest, condemnation or other legal means, real and personal property, including franchises, easements or rights of way on, under or above any property within the area included within the metropolitan transportation authority and for a distance of 10 miles beyond any portion of the limits of any authority if there is no similar authority established or operating public transportation facilities within such 10 mile extra-territorial distance that may be necessary or convenient for carrying out the intent and purposes for which it is established: Provided, however, That the 10 mile extra-territorial distance shall apply only to areas located geographically within the state of Michigan. The authority shall have the right to use space and areas over, under and upon the public streets and highways to carry out its duties subject to reasonable use. In acquiring any private bus company pursuant to section 24, the authority may not do so piecemeal but shall acquire the entire system including that which may be outside the area then included within the authority: Provided, however, That this act shall apply to bus companies

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operating solely within the jurisdiction of the authority or whose major portion of bus passengers are within the jurisdiction of the authority: Provided, further, That the authority can, through mutual agreement of the parties involved, acquire a portion of any bus company if that portion falls within the jurisdiction of the authority whether or not that bus company is subject to the provisions of this act.

(d) Institute condemnation proceedings, but not highway procedure, under the laws of this state which are applicable to the acquisition of private property for public use subject to the provisions of section 24.

(e) Apply for and accept grants, loans or contributions from the federal government or any of its agencies, the state or other public or private agencies to be used for any of the purposes herein and to do any and all things within its express or implied powers necessary or desirable to secure such financial or other aid or cooperation in the carrying out of any of the purposes of this act.

(f) Sell, lease or use any property acquired for the purposes of this act but not needed thereof, and lease advertising space and grant concessions for the sale of newspapers and other articles and for services on or in any portion of the property under the jurisdiction of the authority.

(g) Grant to utilities, public or privately owned, the right to use the property or any part of the property of the transportation facilities. In like manner it may grant to any other transportation facility the right to use for station purposes, or otherwise, any part of the property of the transportation facilities.

(h) Contract, if necessary or advisable, with any other unit of government or private enterprise for service contracts, joint use contracts or contracts for the construction or operation of any part of the transportation facilities within the limits of the unit of government.

(i) Exercise all other powers incidental, necessary or convenient for the exercise of the powers herein granted.

HISTORY: New 1967, p. 277, Act 204, Imd. Eff. Jul. 10.

124.407 Rates and charges; services; public service commission; jurisdiction; appeals; injunctions.

Sec. 7. Any authority may fix rates, fares, tolls, rents and other charges for the use of the transportation facilities owned and operated for all intraregional travel within the jurisdiction of the authority as well as the services to be rendered by the authority. The authority shall determine by itself exclusively, after appropriate public hearing, the transportation facilities to be operated by it, the services to be available to the public and the rates to be charged therefor. Where the authority has acquired, constructed or initiated a system which includes routes or service which originates in, terminates in or passes through areas not included in the authority then those routes, service and maintenance of service as well as the rates therefor shall be under the jurisdiction of the public service commission in the same manner and to the same degree as any other common motor carrier of passengers for hire operating outside the authority area. If the counties in which these areas are situate become part of the authority the jurisdiction of the public service commission as to the routes, service maintenance of service and rates of the authority in that county shall terminate. Any person aggrieved by any rate or service or change of service fixed by the authority may bring an appeal against the authority in the proper court in any county in the metropolitan area in which the charge, service or change of service is applicable, for the purpose of protesting against any such charge, service or change of service. The grounds for such appeals shall be restricted to an abuse of discretion or an error of law; otherwise, all such actions by the authority are final. Whenever 2 or more appeals are brought against the same action of the authority, exclusive jurisdiction for the determination thereof shall

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be vested in the first court to receive an appeal, and all other courts receiving subsequent appeals against the same action shall transfer the appeals to the first court. Upon the finding of an error of law or a manifest and flagrant abuse of discretion, the court shall issue an order setting forth the abuse or error and returning the matter to the authority for such further action as is not inconsistent with the findings of the court. No cause of action shall exist on behalf of any person directly or indirectly, under which any court shall have jurisdiction or power to issue or grant any temporary or preliminary injunction or restraining order to prevent or suspend the operation of any order or rule of the authority which fixes rates, fares, tolls, rents or other charges for the use of or which changes any services of the transportation facilities under the jurisdiction of the authority.

HISTORY: New 1967, p. 278, Act 204, Imd. Eff. Jul. 10.

124.408 Southeastern Michigan transportation authority; powers and duties.

Sec. 8. (1) The southeastern Michigan transportation authority shall confine its initial studies to those necessary for the development of plans and recommendations necessary for the acquisition, improvement and operation of existing bus systems and the implementation of such recommendations and plans and to such other studies as may be requested by state departments.

(2) In addition to the provisions of subsection (1), the authority shall plan and develop an operational coordination of the bus systems, that it may have consolidated as a result of the implementation of recommendations and plans, with the existing commuter rail operations of the area.

(3) The authority shall give particular attention to existing rail commuter facilities serving the Woodward avenue corridor and shall develop a series of financial, legislative and operations recommendations for economically feasible improvements in service which are acceptable to the management of the affected private railroad companies as well as to the public. Such plans and recommendations shall be submitted to the board not later than 18 months from the date of the creation of the authority.

(4) The authority shall perform only the duties outlined in subsections (1), (2) and (3) above during the first 18 months of its existence unless the agency responsible under the federal highway act of 1962 has completed the public transportation portion of its comprehensive transportation and land use study prior to the expiration of the 18-month period. The authority, after receiving the comprehensive transportation and land use study from the agency shall accept, modify or totally reject such plan. The limitations set forth in this subsection shall not be deemed to limit the powers of the authority set forth in this act except those provisions deemed to empower the authority to plan and construct methods of transportation not now in use in the area in which the authority is constituted.

HISTORY: New 1967, p. 279, Act 204, Imd. Eff. Jul. 10.

124.409 Motor carrier and public service acts; applicability.

Sec. 9. In the exercise of its powers within its geographical boundaries, an authority is exempt from the motor carrier act and the public service act.

HISTORY: New 1967, p. 279, Act 204, Imd. Eff. Jul. 10.

124.410 Governing boards; members, residence, terms, appointments, successors, vacancies, compensation; meetings; rules; records; quorum; enlargement of southeastern Michigan transportation authority.

Sec. 10. (1) Authorities shall be governed by a board consisting of 9 members. The term of office of the members of the board shall be 3 years, except that of the members first appointed 3 shall be for 1 year, 3 for 2 years and 3 for 3 years. All terms shall expire on June 30 except that members shall serve until their successors are appointed.

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The members of the board may be removed by the appointing authority for cause. Any vacancy in office shall be filled by the governor for the remainder of the unexpired term. The members shall annually elect a chairman and vice chairman from among their members. The board shall hold regular monthly meetings and special meetings as necessary at such times as it determines, and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings. Five members constitute a quorum for the transaction of business and the affirmative vote of a majority of all the members shall be necessary for the adoption of any resolution. The members of a board shall be residents of the counties included in the authority. If a county withdraws from the southeastern Michigan transportation authority pursuant to section 5, the term of any member of the board from such county expires at the time of the county's withdrawal. Members of the board shall receive no compensation but shall be entitled to reimbursement of expenses incurred in the discharge of their duties.

(2) Six members of the board shall be appointed by the governor with the advice and consent of the senate, from lists of 3 or more names each submitted by the board of supervisors of member counties, the mayor of any city within the authority with a population exceeding 500,000, and, in the case of the southeastern Michigan transportation authority, by the southeast Michigan council of governments. Three appointments shall be made directly by the governor with the advice and consent of the senate on the basis of 1 each year.

(3) The authority shall hold a public hearing on its annual operating and capital budget, financial audits and construction plans.

(4) An authority shall also maintain close working and coordinating relationships with the state, local and federal agencies or other such agencies to the end that duplication of effort is minimized and that the planning and implementation functions work together in the public interest to carry out the purposes of this act.

(5) After the initial appointments are made by the governor to the southeastern Michigan transportation authority and effective June 1, 1971, those members of the southeast Michigan council of governments who represent governmental units within the jurisdiction of the authority shall have the power by a majority vote to appoint 6 of the 9 members of the authority upon expiration of the initial terms of appointments on the basis of 2 each year. Vacancies in unexpired terms shall be filled by the authority which first made that appointment. The power of appointment of 3 members shall remain with the governor.

(6) The enlargement of the existing 7 member board of the southeastern Michigan transportation authority, which was organized in 1967 and is now functioning, to a 9 member board as provided in subsection (1) and compliance with the appointment procedures of subsections (1), (2) and (5) as related to the existing 7 member board shall be accomplished as follows:

(a) The offices of 3 members, with 1-year terms on the existing 7 member board which expire June 30, 1968, shall be filled by appointment of 1 member by the governor with the advice and consent of the senate and by appointment of 2 members by the governor from nominations submitted as provided in subsection (2), all of which appointments shall be for terms of 3 years expiring June 30, 1971.

(b) The governor shall appoint 1 new member with the advice and consent of the senate for a term ending June 30, 1969, which newly appointed member shall be in the 2-year term class with the 2 members of the existing 7 member board appointed in 1967.

(c) The governor shall appoint 1 new member with the advice and consent of the senate for a term ending June 30, 1970, which newly appointed member shall be in the

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3-year term class with the 2 members of the existing 7 member board appointed in 1967.

(d) Except as provided in this subsection the existing terms and appointments of the members of the existing 7 member board of the southeastern Michigan transportation authority are not affected.

(e) Appointments of 3 members in 1969 and in 1970 to the enlarged 9 member board shall be made by the governor as provided in paragraph (a), which appointments shall be for terms of 3 years each.

(f) In 1971 and thereafter appointments to the enlarged 9 member board shall be made by the governor with the advice and consent of the senate as to 1 appointee and shall be made by the southeast Michigan council of governments as to 2 appointees as provided in subsection (5) which appointments shall be for terms of 3 years each.

HISTORY: New 1967, p. 279, Act 204, Imd. Eff. Jul. 10;—Am. 1968, p. 357, Act 233, Imd. Eff. Jun. 26;—Am. 1970, p. 672, Act 250, Imd. Eff. Dec. 31.

124.411 Governing boards; general manager; policies, annual audits.

Sec. 11. The board shall:

(a) Employ a general manager of the authority.

(b) Establish broad policies covering all major operations of the authority.

(c) Employ an independent certified public accounting firm to provide annual financial audits.

HISTORY: New 1967, p. 280, Act 204, Imd. Eff. Jul. 10.

124.412 Governing boards; general manager; appointment, powers, duties, term.

Sec. 12. Before engaging in transportation operations, or at such time as the board deems appropriate and necessary, the board shall appoint a general manager who shall be the chief executive and operating officer of the authority. The general manager shall have management of the properties and business of the authority and the employees thereof. He shall direct the enforcement of all resolutions, rules and regulations of the board, and shall enter into contracts as necessary under the general control of the board. The general manager shall serve at the pleasure of the board.

HISTORY: New 1967, p. 280, Act 204, Imd. Eff. Jul. 10.

124.413 Governing boards; officers, employees, agents; appointment, classification, merit rating; collective bargaining; assumed wage, hour, and other benefit obligations; returning servicemen.

Sec. 13. (1) The general manager shall have the authority to appoint such officers, employees and agents as necessary to carry out the purposes of the authority under the general policy direction of the board. At such time as the authority operates transportation facilities, the general manager shall classify all the offices, positions and grades of regular employment required under a merit rating system; except that a maximum of 5% of the employees and officers shall be exempt from the provisions of the merit rating system. The authority shall have the right to bargain collectively and enter into agreements with labor organizations, and shall be bound by existing labor union agreements with public or privately owned entities that are acquired, purchased or condemned by the authority. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The board shall assume the obligation of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees.

(2) No employee of any acquired transportation system who is transferred to a position with the authority shall by reason of such transfer be placed in any worse position

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with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits that he enjoyed as an employee of such acquired transportation system.

(3) Employees who left the employ of such transportation system to enter the military service of the United States shall have the same rights as to the authority, under the provisions of the service men's employment tenure act approved July 17, 1941, as they would have had thereunder as to such transportation system.

HISTORY: New 1967, p. 280, Act 204, Imd. Eff. Jul. 10.

124.414 Taxation; methods of financing.

Sec. 14. The authority may not levy taxes nor may it pledge the credit or taxing power of the state or any political subdivision except for the pledging of receipts of taxes, special assessments or charges collected by the state or a political subdivision and returnable or payable by law or by contract to the authority and except for the pledge by a political subdivision of the state of its full faith and credit in support of its contractual obligations to the authority as authorized by law. Transportation facilities shall be financed, in addition to other methods of financing provided by law, as follows:

(a) By fares, rates, tolls and rents.

(b) By other income or revenues from whatever source available, including appropriations or contributions of whatever nature or other revenues of the participating counties and political subdivisions within the geographical boundaries of the authority.

(c) By grants, loans or contributions from federal, state or other governmental units and grants, contributions, gifts, devises or bequests from public or private sources.

(d) By proceeds of taxes, special assessments or charges imposed pursuant to law and collected by the state or a political subdivision and returned or paid to the authority pursuant to law or contract.

HISTORY: New 1967, p. 281, Act 204, Imd. Eff. Jul. 10;—Am. 1970, p. 673, Act 250, Imd. Eff. Dec. 31.

124.415 Annual operating and capital budget; review, approval; five-year capital program budgets, annual revision; financial audits; construction programs.

Sec. 15. (1) The general manager shall prepare and the board shall approve a separate operating and capital budget for each fiscal year. These budgets shall be approved at least 30 days prior to the beginning of each new fiscal year. In addition, capital program budgets shall be prepared to cover periods of 5 years. The first of these annual capital program budgets shall be submitted no later than 3 years after the initial formation of the authority. These shall be revised and updated annually prior to submission to the board.

(2) The authority shall submit its annual operating and capital budget, financial audits and construction plans to a regional governmental and coordinating agency where one exists in the region for review and comment a reasonable time prior to final approval by the authority board of directors.

HISTORY: New 1967, p. 281, Act 204, Imd. Eff. Jul. 10.

124.416 Bonds; payment; tax; issuance; advances; contracts.

Sec. 16. (1) The authority may issue bonds to finance and to carry out its powers and duties. The bonds shall be payable from and may be issued in anticipation of payment of the proceeds of any of the methods of financing described in section 14 or elsewhere in this act or as may be provided by law. A political subdivision within the geographical boundaries of the authority may contract to make payments, appropriations or contributions to the authority of the proceeds of taxes, special assessments or charges imposed and collected by the political subdivision or out of any other funds le-

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gally available and may pledge its full faith and credit in support of its contractual obligation to the authority. Such contractual obligation shall not constitute an indebtedness of a political subdivision within a statutory or charter debt limitation. If the authority has issued bonds in anticipation of payments, appropriations or contributions to be made to the authority pursuant to contract by a political subdivision having the power to levy and collect ad valorem taxes, the political subdivision may obligate itself by such contract, and thereupon may levy a tax on all taxable property in the political subdivision, which tax as to rate or amount will be as provided in section 6 of article IX of the constitution of the state of Michigan of 1963 for contract obligations in anticipation of which bonds are issued, to provide sufficient moneys to fulfill its contractual obligation to the authority.

(2) The bonds of the authority shall be issued and sold in compliance with Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, except that such bonds may be issued for any period of years, not exceeding 40 years. The bonds may be:

(a) Serial bonds or term bonds, or a combination of both serial and term bonds.

(b) Issued for a consideration other than cash.

(c) For an amount which includes interest capitalized for a period not exceeding 3 years subsequent to the date of the bonds.

(d) Sold at public sale, as provided in Act No. 202 of the Public Acts of 1943, as amended, or at private sale.

(3) A public corporation or a private corporation, firm or individual may advance moneys or deliver property to the authority to finance or to carry out any of its powers and duties. The authority may agree to repay such advances or pay for such property within a period not exceeding 10 years, from the proceeds of its bonds or from any other funds legally available therefor, with or without interest as may be agreed at the time of advance or of repayment. The obligation of the authority to make such repayment or payment may be evidenced by a contract or note or notes, which contract or note may pledge the full faith and credit of the authority, but the contract or note shall not be deemed to be an obligation within the meaning of Act No. 202 of the Public Acts of 1943, as amended.

(4) Any political subdivision desiring to enter into a contract under the provisions of section 16 (1) hereof shall authorize, by resolution of its governing body, the execution of such contract, which resolution shall be published in a newspaper of general circulation within such political subdivision, and such contract may be executed without a vote of the electors thereon upon the expiration of 90 days after the date of such publication unless, within said 90 day period, a petition signed by not less than 5% of the registered electors residing within the limits of such political subdivision shall have been filed with the clerk thereof requesting a referendum upon the execution of such contract, and in that event such contract shall not be executed until approved by the vote of a majority of the electors of such political subdivision qualified to vote and voting thereon at a general or special election to be held not more than 90 days after the filing of such petition.

HISTORY: New 1967, p. 281, Act 204, Imd. Eff. Jul. 10;—Am. 1970, p. 673, Act 250, Imd. Eff. Dec. 31.

124.417 Competitive bids; necessity, procedure; written price quotations; procurement procedures; waiver.

Sec. 17. (1) Except in the purchase of unique article or articles which, for any other reason, cannot be obtained in the open market and except as otherwise provided in this section and in section 24, competitive bids shall be secured before any purchase or sale, by contract or otherwise is made or before any contract is awarded for construction, alterations, supplies, equipment, repairs or maintenance or for rendering any

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services to the authority other than professional services; and the purchase shall be made from or the contract shall be awarded to the lowest responsible bidder; or a sale to the highest responsible bidder. The authority may reject any and all such bids or proposals. No purchase of any unique article or other articles which cannot be obtained in the open market shall be made without express approval of the board where the amount involved is in excess of $5,000.00.

(2) All purchases and sales in excess of $5,000.00 shall be awarded after advertising in a local newspaper of general circulation in the metropolitan area at least 2 weeks prior to the bid opening. Bids shall be publicly opened and read aloud at a date, time and place designated in the invitation to bid. Invitations to bid shall be sent at least 1 week prior to the bid opening to at least 3 potential bidders who are qualified technically and financially to submit bids, or in lieu thereof a memorandum shall be kept on file showing that less than 3 potential bidders who are so qualified exist in the market area within which it is practicable to obtain bids.

(3) Written price quotations from at least 3 qualified and responsible vendors shall be obtained for all purchases and sales under $5,000.00 and over $1,000.00, or in lieu thereof, a memorandum shall be kept on file showing that less than 3 vendors so qualified exist in the market area within which it is practicable to obtain quotations; except as hereinafter provided.

(4) Purchases or sales under $1,000.00 may be negotiated with or without competitive bidding under procurement procedures as promulgated and established by the general manager.

(5) Competitive bidding requirements may be waived if it is determined by the general manager, or in such other manner as the board may provide, by regulation, that an emergency directly and immediately affecting service, or public health, safety or welfare requires immediate delivery of supplies, materials, equipment or services.

HISTORY: New 1967, p. 281, Act 204, Imd. Eff. Jul. 10;—Am. 1970, p. 674, Act 250, Imd. Eff. Dec. 31.

124.418 Concessions; award, procedure.

Sec. 18. All concessions granted by the authority for the sale of products or the rendition of services for a consideration on authority property shall be awarded only pursuant to written specifications after competitive bidding and to the highest responsible bidder in a manner similar to that required by section 17 relating to contracts for procurement involving an expenditure of more than $5,000.00. This requirement for competitive bidding shall not apply to any concession involving the estimated receipt by the authority of less than $1,000.00 over the period for which the concession is granted.

HISTORY: New 1967, p. 282, Act 204, Imd. Eff. Jul. 10.

124.419 Transportation authority claims; notice, allowance, jurisdiction over actions against authority.

Sec. 19. All claims that may arise in connection with the transportation authority shall be presented as ordinary claims against a common carrier of passengers for hire: Provided, That written notice of any claim based upon injury to persons or property shall be served upon the authority no later than 60 days from the occurrence through which such injury is sustained and the disposition thereof shall rest in the discretion of the authority and all claims that may be allowed and final judgment obtained shall be liquidated from funds of the authority: Provided, further, That only the courts situated in the counties in which the authority principally carries on its function are the proper counties in which to commence and try action against the authority.

HISTORY: New 1967, p. 282, Act 204, Imd. Eff. Jul. 10.

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124.420 Assistance from political subdivisions and public and private agencies.

Sec. 20. All counties, other political subdivisions and agencies, public or private, may assist, cooperate with, and contribute services, money or property in aid of such authorities and their purposes.

HISTORY: New 1967, p. 282, Act 204, Imd. Eff. Jul. 10.

124.421 Liberal construction of act.

Sec. 21. This act, being necessary for the public peace, health, safety and welfare, shall be liberally construed to effect the purposes hereof which are declared to be public purposes.

HISTORY: New 1967, p. 282, Act 204, Imd. Eff. Jul. 10.

124.422 Tax exemption of property.

Sec. 22. Authorities and their property, real, personal and mixed, are exempt from assessment, levy and collection of all general and special taxes of the state or any governmental unit.

HISTORY: New 1967, p. 282, Act 204, Imd. Eff. Jul. 10.

124.423 Annual public report and financial statement.

Sec. 23. The authority shall prepare and publish a detailed public report and financial statement of its operations at the end of each fiscal year.

HISTORY: New 1967, p. 283, Act 204, Imd. Eff. Jul. 10.

124.424 Acquisition of transportation operating facilities; negotiation; condemnation or arbitration, election; competition with common carriers.

Sec. 24. The authority shall endeavor to acquire facilities, assets and rights of existing and operating private or public transportation systems, however no liability other than for equipment and facilities shall be assumed or contracted for, by good faith negotiation and contract and in so doing shall not be required to comply with any statutory or charter limitations or prerequisites to such acquisition. If such contract provides only for operation of the transportation system by the authority or for acquisition without consideration, the transaction shall not be deemed to be a sale of a public utility within any constitutional, statutory or charter limitation or any revenue bond ordinance. In the event that negotiation does not result in a settlement, the authorities shall request in writing to the party owning such facilities and such party shall elect in writing within 15 days of such request between condemnation under the provisions of this act or binding final arbitration under the rules and procedures of the American arbitration association. Such election shall be limited to condemnation or arbitration and shall be final. Until such time as the authority shall have acquired the routes of a common carrier of persons certified by the Michigan public service commission and which common carrier is subject to the provisions of this act and not exempt under the provisions of section 6 (c) the authority shall not operate competitive service over the same routes with such common carrier, except for existing competing service which is operated by a company acquired by the authority.

HISTORY: New 1967, p. 283, Act 204, Imd. Eff. Jul. 10;—Am. 1970, p. 675, Act 250, Imd. Eff. Dec. 31.

124.425 Records, public inspection; public meetings; public notice.

Sec. 25. Records of an authority shall be available for public inspection during normal business hours. Meetings of the board shall be open to the public: Provided, further, That all official actions be taken in public session. Adequate public notice of all meetings shall be given in advance.

HISTORY: New 1967, p. 283, Act 204, Imd. Eff. Jul. 10.

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Act 7, 1967 (Ex. Ses.), p. 751; Eff. Mar. 22, 1968.

AN ACT to provide for interlocal public agency agreements; to provide standards for such agreements and for the filing and status thereof; and to provide for additional approval for such agreements.

The People of the State of Michigan enact:

124.501 Urban cooperation act; short title.

Sec. 1. This act shall be known and may be cited as the "urban cooperation act of 1967".

HISTORY: New 1967, 1st Ex. Ses., p. 751, Act 7, Eff. Mar. 22, 1968.

124.502 Urban cooperation act; definitions.

Sec. 2. As used in this act:

(a) "Interlocal agreement" means an agreement entered into pursuant to this act.

(b) "Province" means a province of the Dominion of Canada.

(c) "Public agency" means a political subdivision of this state or of any state of the United States or the Dominion of Canada, including, but not limited to, state government, a county, city, village, township, charter township, school district, single and multipurpose special district, single and multipurpose public authority; provincial government, metropolitan government, borough, and any other political subdivision of the Dominion of Canada; any agency of the United States government; and any similar entity of any other states of the United States and of the Dominion of Canada.

(d) "State" means a state of the United States.

HISTORY: New 1967, 1st Ex. Ses., p. 751, Act 7, Eff. Mar. 22, 1968.

124.503 Conflicting statutory provisions.

Sec. 3. If any provision of this act conflicts with any other statute of this state providing for the authorization or performance of joint or cooperative agreements or undertakings between public agencies of this state or between public agencies of this state and public agencies of other states or of the Dominion of Canada, the provisions of such other statutes shall control.

HISTORY: New 1967, 1st Ex. Ses., p. 751, Act 7, Eff. Mar. 22, 1968.

124.504 Joint exercise of powers.

Sec. 4. A public agency of this state may exercise jointly with any other public agency of the state or with a public agency of any other state of the United States or with a public agency of the Dominion of Canada or with any public agency of the United States government, any power, privilege or authority which such agencies share in common and which each might exercise separately.

HISTORY: New 1967, 1st Ex. Ses., p. 751, Act 7, Eff. Mar. 22, 1968.

124.505 Joint exercise of powers; contracts; interlocal agreements; contents.

Sec. 5. A joint exercise of power pursuant to this act shall be made by contract or contracts in the form of an interlocal agreement which may provide for:

(a) The purpose of such interlocal agreement or the power to be exercised and the method by which the purpose will be accomplished or the manner in which the power will be exercised.

(b) The duration of the interlocal agreement and the method by which it may be rescinded or terminated by any participating public agency prior to the stated date of termination.

(c) The precise organization, composition and nature of any separate legal or admin-

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istrative entity created thereby with the powers designated thereto, if such entity may be legally created.

(d) The manner in which the parties to the interlocal agreement will provide for financial support from the treasuries that may be made for the purpose set forth in the interlocal agreement, payments of public funds that may be made to defray the cost of such purpose, advances of public funds that may be made for the purposes set forth in the interlocal agreements and repayment thereof, and the personnel, equipment or property of 1 or more of the parties to the agreement that may be used in lieu of other contributions or advances.

(e) The manner in which funds may be paid to and disbursed by any separate legal or administrative entity created pursuant to the interlocal agreement.

(f) A method or formula for equitably providing for and allocating revenues and for equitably allocating and financing the capital and operating costs, including payments to reserve funds authorized by law and payments of principal and interest on obligations. The method or formula shall be established by the participating parties to the interlocal agreement on a ratio of full valuation of real property, or on the basis of the amount of services rendered or to be rendered, or benefits received or conferred or to be received or conferred, or on any other equitable basis, including the levying of taxes or assessments to pay such costs on the entire area serviced by the parties to the interlocal agreement subject to such limitations as may be contained in the constitution and statutes of this state.

(g) The manner of employing, engaging, compensating, transferring or discharging necessary personnel, subject to the provisions of applicable civil service and merit systems.

(1) Such employees as are necessary for the operation thereof, shall be transferred to and appointed as employees subject to all rights and benefits. These employees shall be given seniority credits and sick leave, vacation, insurance and pension credits in accordance with the records or labor agreements from the acquired system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The political subdivisions to which the functions or responsibilities have been transferred shall assume the obligation of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. If the employees of an acquired system were not guaranteed sick leave, health and welfare and pension or retirement pay based on seniority, the political subdivision shall not be required to provide these benefits retroactively.

(2) No employee who is transferred to a position with the political subdivision shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits that he enjoyed as an employee of such acquired system.

(h) The fixing and collecting of charges, rates, rents or fees, where appropriate, and the making and promulgation of necessary rules and regulations and their enforcement by or with the assistance of the participating parties to the interlocal agreement.

(i) The manner in which purchases shall be made and contracts entered into.

(j) The acquisition, ownership, custody, operation, maintenance, lease or sale of real or personal property.

(k) The disposition, division or distribution of any property acquired through the execution of such interlocal agreement.

(l) The manner in which, after the completion of the purpose of the interlocal agree-

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ment, any surplus money shall be returned in proportion to the contributions made by the participating parties.

(m) The acceptance of gifts, grants, assistance funds or bequests.

(n) The making of claims for federal or state aid payable to the individual or several participants on account of the execution of the interlocal agreement.

(o) The manner of responding for any liabilities that might be incurred through performance of the interlocal agreement and insuring against any such liability.

(p) The adjudication of disputes or disagreements, the effects of failure of participating parties to pay their shares of the costs and expenses and the rights of the other participants in such cases.

(q) The manner in which strict accountability of all funds shall be provided for and the manner in which reports, including an annual independent audit, of all receipts and disbursements shall be prepared and presented to each participating party to the interlocal agreement.

(r) Any other necessary and proper matters agreed upon by the participating public agencies.

HISTORY: New 1967, 1st Ex. Ses., p. 752, Act 7, Eff. Mar. 22, 1968.

124.506 Execution of agreement; provision of services; exchange of services.

Sec. 6. An interlocal agreement may provide for 1 or more parties to the agreement to administer or execute the agreement. One or more parties to the agreement may agree to provide all or a part of the services set forth in the agreement in the manner provided in the agreement. The parties may provide for the mutual exchange of services without payment of any contribution other than such services.

HISTORY: New 1967, 1st Ex. Ses., p. 753, Act 7, Eff. Mar. 22, 1968.

124.507 Administrative commission, board or council; public body, corporate or politic; powers.

Sec. 7. (1) An interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement which may be a commission, board or council constituted pursuant to the agreement. The entity shall be a public body, corporate or politic for the purposes of this act.

(2) A separate legal or administrative entity created by an interlocal agreement shall possess the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement. The entity may be, in addition to its other powers, authorized in its own name to make and enter into contracts, to employ agencies or employees, to acquire, construct, manage, maintain or operate buildings, works or improvements, to acquire, hold or dispose of property, incur debts, liabilities or obligations which do not constitute the debts, liabilities or obligations of any of the parties to the agreement. The entity may sue and be sued in its own name.

(3) No separate legal or administrative entity created by an interlocal agreement shall possess the power or authority to levy any type of tax within the boundaries of any governmental unit participating in the interlocal agreement, or to issue any type of bond in its own name, or to in any way indebt a governmental unit participating in the interlocal agreement.

HISTORY: New 1967, 1st Ex. Ses., p. 753, Act 7, Eff. Mar. 22, 1968.

124.508 Payments, repayments or returns to parties from operation of revenue-producing facilities.

Sec. 8. If the purpose set forth in an interlocal agreement is the acquisition, construction or operation of a revenue-producing facility, the agreement may provide for the repayment or return to the parties of all or any part of the contributions, payments

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or advances made by the parties pursuant to section 5, and for payment to the parties of any sum derived from the revenues of such facility. Payments, repayments or returns shall be made at any time and in the manner specified in the agreement, and may be made at any time on or prior to the rescission or termination of the agreement, or completion of the purposes of the agreement.

HISTORY: New 1967, 1st Ex. Ses., p. 753, Act 7, Eff. Mar. 22, 1968.

124.509 Privileges, immunities, and benefits of officers, agents, or employees; obligations and responsibilities of public agencies.

Sec. 9. (1) All of the privileges and immunities from liability, and exemptions from laws, ordinances and rules, and all pensions, relief, disability, workmen's compensation and other benefits which apply to the activity of officers, agency, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents or employees extraterritorially under the provisions of any such interlocal agreement.

(2) An interlocal agreement does not relieve a public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance thereof by 1 or more of the parties to the agreement or any legal or administrative entity created by the agreement in which case the performance may be offered in satisfaction of the obligation or responsibility.

HISTORY: New 1967, 1st Ex. Ses., p. 754, Act 7, Eff. Mar. 22, 1968.

124.510 Approval of certain agreements by governor; filing.

Sec. 10. (1) If funds of the state are to be allocated to carry out, in whole or in part, an agreement under this act or if the state, an agency of the United States government, any other state or political subdivision thereof, or the Dominion of Canada or political subdivision thereof, is a party to an agreement under this act, an interlocal agreement, prior to and as a condition precedent to its effectiveness, shall be submitted to the governor who shall determine whether the agreement is in proper form and compatible with the laws of this state. The governor shall approve any agreement submitted to him unless he finds that it does not meet the conditions set forth in this act or is not compatible with the laws of this state. If he so finds he shall detail in writing addressed to the governing bodies of the public agencies concerned within 90 days the specific respects in which the proposed interlocal agreement fails to meet the requirements of law. The governing bodies of the public agencies concerned shall have 60 days to resubmit the revised interlocal agreement to the governor who shall approve or disapprove the agreement within 90 days.

(2) Prior to its effectiveness an interlocal agreement shall be filed with the county clerk of each county where a party to the agreement is located and with the secretary of state.

HISTORY: New 1967, 1st Ex. Ses., p. 754, Act 7, Eff. Mar. 22, 1968.

124.511 Provision of services or facilities by state officers or agencies; submission of agreement for approval.

Sec. 11. If an interlocal agreement deals in whole or in part with the provision of services or facilities as to which an officer or agency of the state has constitutional or statutory responsibilities and powers of control, the agreement, as a condition precedent to its effectiveness, shall be submitted to the state officer or agency having such responsibilities and powers of control and shall be approved or disapproved by him or it as to all matters under his or its jurisdiction in the same manner and subject to the same requirements governing the action of the governor pursuant to section 10. This

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requirement of submission and approval is in addition to and not in substitution for the requirement of approval by the attorney general.

HISTORY: New 1967, 1st Ex. Ses., p. 754, Act 7, Eff. Mar. 22, 1968.

124.512 Appropriation of funds by public agency; sale, lease, or gift of personnel, services, facilities; receipt of grants-in-aid.

Sec. 12. (1) A public agency entering into an interlocal agreement may appropriate funds and may sell, lease, give or otherwise supply any party designated to operate the joint or cooperative undertaking such personnel, services, facilities, property, franchises or funds therefor as may be within its legal power to furnish.

(2) A public agency entering into an interlocal agreement may receive grants-in-aid or other assistance funds from the United States government, the state of Michigan, or the Dominion of Canada for use in carrying out the purposes of the interlocal agreement.

HISTORY: New 1967, 1st Ex. Ses., p. 754, Act 7, Eff. Mar. 22, 1968.

Act 8, 1967 (Ex. Ses.), p. 755; Eff. Mar. 22, 1968.

AN ACT to provide for intergovernmental transfers of functions and responsibilities.

The People of the State of Michigan enact:

124.531 Definitions.

Sec. 1. As used in this act:

(a) "Governing body" means the board, council or body in which the legislative powers of a political subdivision are vested.

(b) "Political subdivision" means a city, village, other incorporated political subdivision, county, school district, community college, intermediate school district, township, charter township, special district or authority.

HISTORY: New 1967, 1st Ex. Ses., p. 755, Act 8, Eff. Mar. 22, 1968.

124.532 Authority to contract for transfer of functions or responsibilities.

Sec. 2. Two or more political subdivisions are authorized to enter into a contract with each other providing for the transfer of functions or responsibilities to one another or any combination thereof upon the consent of each political subdivision involved.

HISTORY: New 1967, 1st Ex. Ses., p. 755, Act 8, Eff. Mar. 22, 1968.

124.533 Valid contracts; conditions.

Sec. 3. To enter into a valid contract:

(a) The contract shall be approved by concurrent resolution of the governing body of each political subdivision.

(b) The terms of the contract shall be entered in the journal or minutes of proceedings of the governing body of each political subdivision.

(c) A copy of the contract shall be filed with the secretary of state prior to its effective date.

HISTORY: New 1967, 1st Ex. Ses., p. 755, Act 8, Eff. Mar. 22, 1968.

124.534 Contents of contracts.

Sec. 4. A contract shall include:

(a) A description of the functions or responsibilities to be transferred.

(b) The effective date of the contract.

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(c) The term of operation under the contract.

(d) The manner in which the affected employees, if any, of the participating political subdivisions shall be transferred, reassigned or otherwise treated subject to the following:

(i) Such employees as are necessary for the operation thereof shall be transferred to and appointed as employees subject to all rights and benefits. These employees shall be given seniority credits and sick leave, vacation, insurance and pension credits in accordance with the records or labor agreements from the acquired system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The political subdivision to which the functions or responsibilities have been transferred shall assume the obligations of any system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. If the employees of an acquired system were not guaranteed sick leave, health and welfare and pension or retirement pay based on seniority, the political subdivision shall not be required to provide these benefits retroactively.

(ii) No employee who is transferred to a position with the political subdivision shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits that he enjoyed as an employee of such acquired system.

(e) The manner in which any real property, facilities, equipment or other personal property required in the execution of the contract shall be transferred, sold or otherwise disposed of between the contracting parties.

(f) The method of financing to be used and the amount to be paid by each of the participating units in relation to the undertaking involved.

(g) Other legal, financial and administrative arrangements necessary to effectuate the undertaking.

HISTORY: New 1967, 1st Ex. Ses., p. 755, Act 8, Eff. Mar. 22, 1968.

124.535 Joint board or commission; establishment; duty; membership.

Sec. 5. A joint board or commission may be established by the political subdivisions involved to supervise the execution of a contract. An officer or employee of the state or a political subdivision or agency thereof, except a member of the legislature, may serve on or with any joint board or commission created by the contract and shall not be required to relinquish his office or employment by reason of such service.

HISTORY: New 1967, 1st Ex. Ses., p. 756, Act 8, Eff. Mar. 22, 1968.

124.536 Amendment or termination of contract.

Sec. 6. A contract may be amended by agreement of the parties thereto in the same manner as the original contract was made. A contract may be terminated by joint action of all parties, or by an individual party not less than 1 year after its notice thereof in writing to all other parties.

HISTORY: New 1967, 1st Ex. Ses., p. 756, Act 8, Eff. Mar. 22, 1968.

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